



T H E
LONDON MAGAZINE.

A P R I L, 1744.

JOURNAL of the PROCEEDINGS and DEBATES in the
POLITICAL CLUB, continued from Page 124.



N order to explain the following Debate I must observe, that some Suspicion having arisen of a Practice being lately introduced, to bring Prosecutions against Corporations, or the Members of Corporations, when they refused to chuse such Candidates for their Representatives in Parliament as were recommended by the Minister; and that those Prosecutions were supported at the Expence of the Crown, tho' commenced and carried on in the Name of private Persons*: To prevent this Practice (which was reckoned of dangerous Consequence to our Constitution) for the future, a Bill was brought in last Session of Parliament, and read twice in the House of Lords, but was thrown out upon the Question for referring it to a Committee, on a Division 24 Contents to 63 Not Contents; which Bill was intitled, An Act for the further quieting and establishing Corporations, and was as follows, viz.

1744

WHEREAS, as the Law now stands, Members of Corporations are liable to be prosecuted and disfranchised for being unduly elected, and for other Causes, without any Limitation of Time, to their great Expence, Vexation, and Trouble; and, in many Cases, to the great Confusion, and sometimes to the Overturning and Dissolution of the Corporate Bodies of which they are Members: For Remedy whereof, and for establishing the Peace and Quiet of Corporations, may it please your most excellent Majesty, That it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the Day of D
no Person who hath been or shall be in the actual Possession of any Office or Offices of Mayor, Bailiff, Recorder, Alderman, Jurat, Common-Council, Capital-Burges, Town-Y Clerk,

* See the Report made by the Committee of Secrecy, May 13th, 1742, p. 3, and the further Report made by the said Committee, June 30, 1742, p. 9.

Clerk, or other Office or Offices of Magistracy or Employment, relating to or concerning the Government of any City, Corporation, Borough or Cinque-Port, shall be remov'd from the same, or prosecuted for the Exercise thereof, for or by Reason A of any Disability, or Want of Qualification for such Office or Offices, or for or by Reason of any undue or Irregular Election or Admission to such Office or Offices, or for or by Reason of any Forfeiture of the same; nor shall any Forfeiture or Penalty be incurred, nor the Right of any such Officer or Officers be called in Question, nor shall any of their Acts, not yet avoided, be questioned or avoided, unless such Person or Persons be removed from, or prosecuted for the unlawful Exercise C of such Office or Offices within

after such Person or Persons hath or have been, or shall be elected or admitted to, or placed in, or first in the actual Possession of such Office or Offices, or after such Disability, Want of Qualification, or Forfeiture first incurred: And unless (in Case of a Prosecution) the same be carried on with Effect and due Diligence; provided always, That nothing herein contained shall extend, or be construed to extend to invalidate or make void any Charter heretofore granted, or accepted by any City, Corporation, Borough, or Cinque-Port; nor to make good the Election of any such Officer or Officers, against whom any Judgment of Ouster shall have been entered, or given upon an Information, in the F Nature of a *Quo Warranto*, or whose Election shall have been avoided upon any Writ of *Mandamus*, on or before the Day of

As a great Majority of the House of Commons consists of such as are the G Representatives of our Cities and Boroughs, it is evident, that the Freedom and Independency of that

House depends upon the Freedom of their Elections; and as many or most of our Cities and Boroughs are liable to such Prosecutions, or may very accidentally be exposed to such, we thought the rejecting of this Bill an Affair of such Consequence, that we determined to have a formal Debate upon the Subject; which Debate was opened by C. Plinius Cæcilius, in the Character of the Lord Chancellor, who spoke to this Effect.

My Lords,

AS no human Institution can be so absolutely perfect as to be free from all Inconveniences, it requires great Judgment and Foresight to chuse that which will be exposed to the fewest, or the least dangerous Consequences. This is the most that can be done by human Wisdom, and to do this requires the strictest Scrutiny, the most mature Deliberation. The Scope and Intent of this Bill I approve of, and I shall grant, that the Bill is fundamentally right; but I am afraid, that, in the Shape it now appears in, it will produce more and greater Evils than those it is intended to cure. To remain always liable to Prosecutions, Penalties, and Forfeitures, is a most unfortunate Situation for a private Man, and it is equally so for a publick Society or Corporation. Such a Corporation, I shall allow, must always be very much under the Influence of Ministers, who must necessarily have the Direction of those Prosecutions, and the Power of exacting those Penalties and Forfeitures. For preventing this, I wish a Law could be contrived, which would not expose us to greater Evils; but, I fear, it is impossible; for there are many Evils and many Inconveniences which every Society is exposed to, that cannot be prevented by a positive and particular Law, without opening a Door for greater; such Evils or Inconveniences

conveniences must therefore be left to the Care of the Civil Magistrate, and the Superintendency of the supreme and absolute Power of the Society. By our happy Constitution this supreme and absolute Power is lodged in such Hands as may safely be trusted: It is lodged in King, Lords, and Commons; and as they have a Power to declare that to be a Crime, which was never declared to be so by any Statute; as they have a Power to inflict an adequate Punishment, tho' no particular Punishment was ever prescribed by any positive Law, we have the less Reason to increase the Volume of our Statute Book, already too voluminous, by describing every Crime that can be imagined, or by prescribing Remedies for every Inconvenience, the Society may be supposed to be liable to.

In political as well as natural Life, my Lords, I believe, there may be such a Thing as Hypochondriacism; and Politician, who have the Misfortune to be subject to this Distemper, may suppose our Political Constitution to be infected with Maladies, or exposed to Dangers, which have no Foundation but in their own crazy Imaginations. I am far from thinking, that the Danger intended to be guarded against by this Bill is of such a Nature; but we should be careful, lest by contriving Remedies for imaginary Evils we expose our Constitution to real, which is often the Case of Hypochondriacs in natural Life. It is the Business of the Crown to take care, that every Member of the Society conforms himself to those Laws and Regulations which are established for the good Government and Happiness thereof; it is the Duty of the Crown to prosecute those that do not, and to exact the Penalties and Forfeitures, Offenders have incurred, when the Good of the Society requires Rigour; and the Performance of this

Duty must necessarily be lodged in the Hands of the Ministers and Servants of the Crown: If they should make use of the Power thus necessarily lodg'd in their Hands, in order to gain an illegal and pernicious Influence over our Cities and Corporations with regard to their Elections, I shall grant, it would be a real Evil: I shall grant, that the proper Remedy ought to be apply'd as soon possible; and that Remedy our Constitution has already provided. An Impeachment is the proper Remedy: That Remedy is to be apply'd by the other House, who are certainly the best Judges, because they will first feel the Effects of the Distemper; and if ever they should feel the Effects, we may depend on it, that they would, without Loss of Time, apply the Remedy.

For this Reason, my Lords, I must suppose, that the Distemper intended to be cured, or rather prevented, by this Bill, is as yet a little imaginary, and consequently that the Bill is at present unnecessary; but this is not all: If this Bill, as it now stands, should be passed into a Law, I think, it would be attended with many Inconveniences, and with very dangerous Consequences; or that otherwise it would be without any Effect; for if you limit the Prescription to a very short Time, it would be of the most dangerous Consequence, and if you fix it at a very long Term, the Bill could have little or no Effect, because the Power of Ministers, with respect to the Prosecutions they may carry on against Corporations, would remain so extensive, that an ill Use of it might produce all the bad Effects it can do at present, and consequently could not be restrained by this Bill, but by that Remedy which our Constitution has already established; I mean a Parliamentary Inquiry, and an Impeachment, or Bill of Pains and Penalties from the other House.

Prescription, my Lords, or that Right which a Man acquires by a long uninterrupted Possession, has always been look'd on with an evil Eye by the Common Law of this Kingdom; and the Statutes, by which Prescriptions or Limitations are established have been generally, and ought to be strictly interpreted. So cautious has our Law been of adopting this Method of acquiring a Right or an Immunity, that *Nullum Tempus occurrit Regi* has been always held as a Maxim; and even to this Day, it is not held very honourable for a Man to plead any of our Statutes of Limitation, in avoidance of what is supposed to be a just Debt. Now, my Lords, an Office in any City or Borough is a Right which ought to be justly and lawfully acquired, as much as any other; and the just and lawful Way of acquiring such a Right, is by a due and regular Election, or Admission of a Person properly qualify'd for that Office. If the Person be not properly qualify'd, or not duly and regularly admitted or elected, he has no just Title to that Office; and yet by this Bill you are to give him an indefeasible Right, if he can but keep Possession for a few Months, or for a small Number of Years: I say, a small Number of Years, for if you make the Time for quieting such an Officer's or Magistrate's Possession of any long Duration, the Bill will have no Effect; and if you establish a very short Term, it will, in my Opinion, be establishing Injustice and Violence by a Law, which ought never to be done without an absolute Necessity. This cannot, in the present Case, be pleaded, because, as I have said, we have already a proper Remedy against a Minister, who sets up Prosecutions against Corporations with the sole View of influencing Elections.

Beside the Injustice, my Lords, which this Bill may be tax'd with,

it may said to be a Sort of Encroachment upon the Prerogatives of the Crown; for as the King has the sole Right of establishing Corporations, he likewise has a Right to take care, that the Corporation, as well as every Officer and Magistrate that belongs to it, shall observe the Rules he has been pleased to prescribe to them in their Charter; and to limit his Power of prosecuting for any Neglect or Non-observance to a very short Term, is not only an Encroachment upon his Right, but it may be attended with very bad Consequences; for good Order and even the publick Tranquillity require, that every subordinate Society should observe the Rules and Orders which have been prescribed for their Conduct by the supreme Power; and we cannot suppose, that any Corporation, or any Magistrate or Officer of a Corporation, will be very exact in their Observance of those Rules and Orders, when they know, that a Year or two's Neglect of Prosecution, (a Neglect which the Officers of the Crown are too often guilty of) will secure them against all the Disabilities they may at first have labour'd under, and against all the Penalties and Forfeitures they may have afterwards incur'd. What Confusion this may introduce, or how it may tend to disturb the publick Tranquillity, may be apprehended, but cannot be easily foreseen; and therefore, I think, we ought not to run the Risk without a very evident and pressing Necessity.

I must further observe, my Lords, that this Bill is really a Sort of Repeal of those Laws, which have always been deemed the great Security of our Church as by Law established. When I say this, every Lord must suppose, I mean the Corporation and Test Acts; for if this Bill should be passed into a Law, the most rigid Dissenter might get himself chosen an Alderman of London,

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or a Magistrate of some other City or Borough, without taking the Oaths, or conforming to what is required by Law, for the Security of our Church; and if he should escape being prosecuted during the Time to be limited by this Bill, he might continue in that Magistracy during Life, without ever conforming himself to the established Church; for the Act does not require his conforming after he is elected; and after the Expiration of that Time, his Election could not be declared void on account of his not having conformed within the Year preceding his Election; so that, if this Bill were passed into a Law, most of the Aldermen of *London*, and all those Magistrates in our other Cities or Boroughs, who are chosen for Life, might happen to be Dissenters, and such as openly frequented Conventicles; for if they did not go there in their Habit and with their Ensigns of Magistracy, they could neither be removed nor punished for the Affront put upon the established Church.

To this I shall add, my Lords, that the passing of this Bill into a Law would be very inconvenient for the Corporations themselves, and might bring many of them into great Confusion; for their Magistrates and Officers would become negligent, and consequently commit great Oversight in the Execution of their Office, if they knew that they could neither be removed nor punished for such Negligence, unless the Prosecution should be commenced within a short Time after the Fault committed, which might very probably be expired before the Neglect or Oversight could be discovered.

And I shall conclude, my Lords, with taking notice, that if the Bill were both necessary and proper, yet, I think the present a very improper G Conjuncture for our passing any such Bill. We know how jealous the People are of the Liberties and Pri-

vileges of our Cities and Corporations: We know, that an Attempt upon, or rather the actual Invasion of their Liberties and Privileges, was one of the chief Causes of that general Discontent which brought about the Revolution; and our passing such a Bill would make most People suspect, that some Attempts of the same Nature had lately been made. Is this a proper Time to give any Ground for such a dangerous Suspicion? We are already engaged in B one dangerous War: We are, I may say, upon the Brink of being engaged in another. Is such a Conjuncture proper for raising a Suspicion, which must produce such a general Discontent, as may not only encourage our Enemies to invade us, C but crown their Invasion with Success? Whilst the Bill remains in this House, it is not much heard of without Doors; but if it should be sent to the other, let the Bill be in itself never so improper, let the Objections to the Form of it be never D so strong, I should be afraid of its being rejected, because the People without Doors, who could not hear the Reasons for rejecting it, would, from its being agreed to by this House, suspect, that some Attempts had lately been made upon the Liberties and Privileges of our Corporations; and from its being rejected by the other House they would be convinced, not only that such Attempts had been made, but that they had been made with such Success as to render the Bill for preventing E them unsuccessful. This would raise such a Jealousy as might be of the most dangerous Consequence at such a Conjuncture; and the giving Cause for any such Jealousy would be the more unjust as well as imprudent, because there is no Ground for supposing that our Government has lately made any such Attempts.

For these Reasons, my Lords, the in general I approve of the Design

Design of the Bill, tho' I think it fundamentally right, yet as I think it unnecessary, as I cannot approve of the Form in which it is at present, and as I think it would be extremely dangerous to pass any such Bill at this Juncture, I must be against its A being committed.

Upon this Mamercus Æmilius stood up, and in the Character of the Lord Romney spoke in Substance thus.

My Lords,

THO' I am sensible of my being a very unequal Match for the learned Lord upon the Woolfack, yet as I think I have Reason on my Side, I venture to stand up in Support of the Bill now under our Consideration, and shall endeavour to answer the Objections his Lordship has been pleased to make to it. I shall readily join with his Lordship in acknowledging, that every human Institution must be liable to some Inconveniences, and, I hope, he will join with me in acknowledging, that as an ingenious Lawyer may find a great deal to say against the justest Cause, so an ingenious Politician may start some plausible Objections against the wisest and most useful Regulation that was ever invented by the Wit of Man. This we must be convinced of by daily Experience, and this I was never more fully convinced of, than by the Objections which have been formed against the short Bill now before us. The Danger that arises from the Influence which Ministers may acquire over Corporations, by threatening them with Prosecutions, is so manifest, that it can be deny'd by no Man who knows how difficult it is for them to conform at all Times to the strict Rules of their Charter, and how innocently a Magistrate or Officer of a Corporation may be led, by the Mistake of his Predecessor, to expose himself to Penalties and For-

feitures; and as a Minister is confined to no Time for the bringing of such Prosecutions, he may designedly keep them hanging over the Head of every Corporation, and of every Magistrate or Officer of a Corporation, who is liable to them, in order to force them at every Election to chuse the Candidate he recommends. By this Method, and by the many other Sorts of illegal Influence he has it in his Power to make use of, he may gain the absolute Direction of the Elections of most of the Cities and Boroughs in the Kingdom; and if any Minister should be able to accomplish this wicked Design, your Lordships must be all sensible, that the Freedom and Independency of the other House would be at an End. Instead of being composed of the Representatives of the People, the Majority of it would consist of the Creatures and Tools of a Minister; and a Minister provided with such a House of Commons might soon, by Creation or otherwise, bring a Majority of this House into the same abject Condition.

If your Lordships have any Regard for Posterity, if you have any Regard for your Country, if you have any Regard for your own Honour and Dignity, you will provide in Time against this Mischief; for if it should once be brought upon us, we can never afterwards get rid of it. If by this, and the other Means of Corruption, which every Minister has it in his Power to apply, a wicked one should get a Majority of his Tools and Creatures into the other House, can your Lordships suppose, that you would ever be able to get a Law passed for diminishing his Power? Would not every succeeding Minister make use of the same Means for rendering himself Master of the other House? And can we imagine, that Ministers would not at last make themselves Masters of this House

House as well as the other? My Lords, the Subject is too serious for Compliment, and therefore I shall freely declare, that, in my Opinion, they have it already too much in their Power to do so. Some Innovations that have by Degrees crept into our Constitution, have already furnished Ministers with an Opportunity of having too great an Influence even in this House. They have not as yet, thank God! made themselves our Masters: They will never attempt to do so, by any illegal or extraordinary Means, till they have made themselves Masters of the other House: Till then the Attempt would be ridiculous; but if they should succeed in their Attempts upon the other House, they will soon begin their Attempts upon this; and then it would be too late to think of preventing them by a Law, for such a Fence we cannot have without the Consent of the other House.

The noble Lord talked of Hypochondriacism, and said, that there might be such a Distemper in Politicks as well as in natural Life. It may perhaps be so; but there is what I may call a Distemper of an opposite Kind, which is dangerous in natural Life, and always fatal in Politicks: I mean, a too great Confidence in our Constitution, which makes us neglect an approaching Disease till it is past Remedy. In natural Life, Men of the most robust Constitutions are most subject to this Distemper, if it may be called one; and in Politicks it is the same. In this Country we have, I believe, as robust a political Constitution as any Country ever had: The Duration of it, and the many violent Shocks it has got the better of, is a full Proof of its Vigour. A vigorous Constitution may withstand a high Fever; but no Constitution can withstand a slow Poison, if an Antidote is not applied in Time. The Shocks our political Constitution have for-

merly withstood may be compared to high Fevers, because they were all of a violent Nature; but it is now attacked by a slow and a secret Poison; and, my Lords, if we do not speedily apply the proper Antidotes, I may prophesy, that it will very soon be past all Possibility of a Recovery.

One of the secret Poisons which destroys the Health, and will certainly contribute its Share towards taking away the Life of our Constitution, is the Influence a Minister may gain over the Elections of our Cities and Boroughs, by threatening them with Prosecutions for not having observed all the Ceremonies and Punctilio's prescribed by their Charter. As these Prosecutions are now limited to no Time, a Minister may keep them hanging over the Head of a Corporation as long as he pleases, in order to make himself Master of its Election, and may prosecute none but such Corporations as refuse to elect the Candidate recommended by him. This is a Danger which may certainly be of the most fatal Consequence to our Constitution, therefore it ought to be guarded against; and all that is intended by this Bill is to limit the Time for bringing such Prosecutions, that Corporations, who have transgressed, as most of them have, may at last get out of the Leading-strings of the Minister. This Intention the learned Lord himself approves of: The Bill he acknowledges to be fundamentally right; and this Acknowledgment, I should think, ought to be sufficient, with respect to him at least, for sending it to a Committee; because if there be any Errors or Defects in it, those Errors may be amended, those Defects may be supplied, in the Committee. But after his Lordship acknowledged the Bill to be fundamentally right, he brought Arguments, I think, to shew, that it was fun-

fundamentally wrong. His first was, to shew, that by our Constitution a sufficient Remedy is already provided for this Evil: If I thought so, I should freely acknowledge the Bill to be useless, and, consequently, fundamentally wrong; but the Remedy he mentioned can never, in my Opinion, be an effectual Remedy, because it can but very seldom be applied, and because it may punish, but will never contribute effectually towards preventing the Crime. If a Minister should threaten a Corporation with a Prosecution, unless they would agree to chuse for their Representatives in Parliament, the two Candidates recommended by him; and if this could be plainly and directly proved upon him, it would certainly be a Crime or Misdemeanor, for which he might be impeached by the other House, and would certainly be punished by this; but when we are in Danger of having our Constitution stole from us, to tell us, that we may trust solely to the Power we have of punishing the Thief, if we can discover him, is, in my Opinion, the same with telling a Man, he has no Occasion to lock his Door, because, if a Thief lifts the Latch and steals away his Goods, he may have him hanged for Burglary, as soon as he can detect and apprehend him.

My Lords, this is the Difficulty: To detect the Thief is, in this Case, almost impossible. A Minister may threaten a hundred Corporations, he may have Prosecutions actually brought against several, and yet it may be impossible to prove, that he ever threatened or prosecuted any, especially if this House should refuse to grant an Indemnity to such of his under Agents as should become Evidence against him. A Minister may be easily prevented from doing wrong by a seasonable and well concerted Regulation; but to punish him after he has done wrong, is far from be-

ing so easy. A direct Proof can seldom be had, and all just Men must by shy of prosecuting, much more condemning a Man upon circumstantial Evidence. Besides this, his Friends will be more zealous in defending him against a Prosecution, and he may prevail with many to vote against his Prosecution or Punishment, whom he could not have prevailed on to vote against a reasonable and salutary Law.

Reason alone may convince your Lordships of the Truth of what I say; but if Reason should not, late Experience must. I hope, I may mention, I hope, I may refer to the Proceedings of the other House, the very last Session of Parliament. From the Report of their Secret Committee, I think, it is evident, that the Practice, which this Bill is intended to prevent, had been carried on with Vigour, but with what Success it is impossible to determine, for some Time before last general Election. As to the Boroughs that were threatened, and yielded to those Threats, we can have no Knowledge, nor could that Secret Committee make any Discovery, especially as they could promise no Encouragement, nor even an Indemnity to those that should become Informers. Those that yielded to such Threats, as well as those that threatened, were criminal, and their mutual Guilt was a Cover for their mutual Crimes; but as to those Boroughs that shewed themselves sturdy Beggars, and consequently were prosecuted as well as threatened, the Committee got such an Insight, as must convince every Man, that the Prosecutions were commenced against them, merely on Account of their Obstinacy, with Regard to their future Election, and that those Prosecutions were begun and carried on at the publick Expence. Nay, from the same Report, particularly with regard to the Borough of Raisor, it ap-

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pears further, that when the Magistrates of Corporations were pliable, they might transgress the Rules of their Charter with Impunity, and were supported at the publick Expence, against the Informations or Prosecutions brought by private Men, A as well as in obtaining new Charters, to atone for the Forfeiture of the old.

These Transactions, my Lords, which are certainly in their Nature criminal, appear very plainly from the Report of the Secret Committee B of the other House; and if your Lordships had thought fit to agree to the Indemnifying Bill, which was brought up to you last Session, these Transactions might very probably have been brought directly home to the Door of him, who was C then not only our Chief, but, I may say, our sole Minister. But this was not the only Obstruction which that Committee met with in their Inquiry: They met with many others; and the Obstructions they met with D is an irrefragable Proof, that a Parliamentary Inquiry and Impeachment is far from being a proper or effectual Remedy for the Evil which this Bill is designed to prevent. However, the Discoveries made by that Committee, are such manifest Proofs of our Constitution's being already E seized with the Distemper, that I was surprized to hear the learned Lord talk of Hypochondriacism upon this Occasion. That our Constitution has already been in this Manner attacked, and that the Cure his Lordship seems to lay so much Stress F on, has failed, must be manifest to every one whose Understanding has not been seized with a dead Palsey. Nay, it must be allowed, that if no preventive Remedy be applied, the Distemper may make such a Progress before the Choice of a new Parliament, as will make it absolutely impossible to apply the Remedy proposed by his Lordship; for if a

Minister should, by threatening some Corporations, and bribing others, get a Majority of his Creatures and Tools chosen for next Parliament, can we suppose that an Assembly of such Men would impeach their Master, for the Methods he had made use of to procure them their Seats in that Assembly? Can we suppose, that they would consent to any such Bill as this now under our Consideration, which would of course prevent their having ever again the Honour, or their Country the Dishonour, of their being chosen to represent it in Parliament. My Lords, it would be ridiculous to expect the Concurrence of such a House of Commons; and this makes me the more desirous of having the Bill now past into a Law; because no Man can say, that this may not be the last Opportunity we shall ever have, of saving our happy Constitution from that Cloud of Destruction, which the Report of the Secret Committee has made apparent to every Beholder.

The next Objection the noble Lord was pleased to make, seems to be founded on a Supposition, that the Blank in the Bill must necessarily be filled up either with too short or too long a Day; but surely, my Lords, there is a Medium, and this Medium we are to consider of in the Committee. In my Opinion, the Term for limiting those Prosecutions against Corporations, on Account of their transgressing the Rules prescribed by their Charter, cannot well be made too short. Those Transgressions are generally such as relate to mere Punctilio's, and therefore, if they were never prosecuted or punished, neither the Corporation, nor the Publick could ever suffer in the least. When they are such as relate to Essentials, or such as may really G prejudice the Corporation, or disturb the good Order of Government, there will always be Persons in every Corporation who will be

ready enough to give an Account of such Transgressions, and, consequently, there can never be any Danger of their escaping Punishment, suppose the Term for commencing the Prosecution were limited to one single Year, or even to six Months. Such Transgressions never are, nor can be so secretly committed, as to remain concealed for any Time; because some of the Members of the Corporation are generally Sufferers by such Transgressions, whether of Omission or Commission; and the Sufferers will always take Care to divulge the Transgression by which they suffer, Time enough for having it punished as well as rectified; for as a *Quo Warranto*, or an Information in the Nature of a *Quo Warranto*, may be brought by any private Person, as well as by the publick Officer, if the King's Officers should be so negligent as to let the Time for prosecuting elapse, we may rest secure, that those who have suffered, or are like to suffer by the Transgression, will not; and if it D be a Transgression by which no Man has suffered, or is like to suffer, I am sure, it can be of no Signification to the Publick, whether the Transgressor be punished or no.

What the noble Lord was pleas'd to say about Prescription or Limitation in general, I shall admit to be agreeable to the Doctrine of our Lawyers, who have always taken as much Care as they could, to prevent the Establishment of any Maxim or Regulation that might tend to diminish the Number of our Law-suits, because it would of course diminish the Number of their Fees and Perquisites; but as to Prescription itself, when the Possession is accompany'd with a good Conscience, or what the Civilians call *bona Fides*, it is a Method of acquiring Property that G has been admitted by all Nations, and, I believe, in all Nations but our own, it has been fixed at a cer-

tain Number of Years, such as 40, 50, or 60 Years; for the Good of Society, tho' it does not suit with the Interest of Lawyers, requires, that a Man who has possessed any Thing for a long Time, and really A thought it his own, should at last be quieted in his Possession, so as to be out of all Fear of being disturbed; and I should be glad to be informed, how the Publick could suffer, if it were enacted, that a Magistrate or Officer of a Corporation should be confirmed in his Office by six Months quiet Possession, notwithstanding any Informality or Mistake in his Election or Admission. If the Duty of the Office be faithfully performed, it signifies nothing to the Publick who performs it; C and if any other Person has a better Right, he deserves to lose it, should he neglect claiming it within the Time limited by Law. Nay, should he be hindered from entering his Claim by the *Act of God*, as the Lawyers call it, it would be a Misfortune; but the Publick ought not to be left exposed to Danger, in order to prevent the Possibility of a private Man's meeting with a Misfortune.

As to the other Maxim that has been mentioned, I mean that of E *Nullum Tempus occurrit Regi*, it is, in my Opinion, a most unjust Maxim, and has been established by our Lawyers for the same Reason they have discountenanced Prescription; for as they are advanced by the Favour of the Crown, they have generally taken Care to favour the Crown in all the Law Maxims they have established, and in all the Interpretations they have put upon our Statutes. However, this Maxim has been altered by many Statutes, especially with regard to the Time of commencing Prosecutions for Crimes or Offences. Even in High Treason itself, the Time for prosecuting has been limited to three Years, after which

which no Indictment can be found, except in the Case of an intended Assassination; and shall we now scruple to limit the Time for prosecuting a Mayor or Bailiff of a Corporation, on account of a Mistake or Informality in his Election or Admission, when the Safety of our Constitution so plainly requires, that the Time should be limited?

But this, it seems, would be an Incroachment upon the Prerogatives of the Crown. This, my Lords, I am surprised to hear from any one who professes to be of Whig Principles, which with Pleasure I now find professed by a great Majority of the Nation. According to these Principles, nothing that is for the publick Good, nothing that appears necessary for securing our Liberties can be an Incroachment upon Prerogative, because all the Prerogatives of the Crown are designed for the publick Good, and for the Preservation of our Liberties; consequently no Regulation that tends to the same End can be an Incroachment, but is rather a Strengthening of the Prerogative, by preventing its being made a bad Use of by Ministers. The King has certainly by his Prerogative a Power to prosecute for Treason, and formerly might have delayed the Prosecution as long as he pleased, yet still have kept it hanging over the Head of the suspected Person. The Time of Prosecution has, since the Revolution, been limited to three Years after the Crime committed; so that an Indictment cannot now be found after the Expiration of that Term. Was this an Incroachment upon Prerogative? No, my Lords, as Prerogative is always intended for the Good of the Subject, a Power ceases to be Prerogative when the Exercise of it is extended to the Hurt and Vexation of the Subject; and the Abolishing or Confining of this Power can never justly be called an Incroachment up-

on Prerogative. So the King has by his Prerogative a Power to prosecute Corporations, or the Officers of Corporations, for any Malversations they may be guilty of. This is Prerogative; but to keep those Prosecutions hanging over their Heads, in order to oppress the Freedom of their voting at Elections, is not Prerogative. It is an unjust and a dangerous Power usurped by Ministers; and to abolish or restrain this Power can be no Incroachment upon Prerogative. We can therefore be guilty of no Disrespect towards the Crown in giving our Consent to this Bill; and let us confine the Time for prosecuting within never so short a Term, it can no Way encourage Magistrates or Officers of Corporations to be guilty of Neglects and Oversight in the Execution of their Office; because, as private Men may prosecute as well as the King's Officers, and as some one private Man or other will always have an Interest in prosecuting, they can never expect to escape with Impunity, should the Neglect or Oversight be very remarkable, or such a one as may be attended with bad Consequences to the Corporation, or to the Publick.

How this Bill can have any Relation to the Test Act, I cannot really, my Lords, comprehend, since it no Way relates to Officers either Civil or Military under the Crown; and as to the Corporation Act, there is nothing proposed to be done by this Bill, but what has been already done by the Act for quieting Corporations, pass'd in the 5th Year of the late King; for by that Law it is already provided, that no Person shall be removed from any Office in a Corporation, or otherwise prosecuted, for having omitted to take the Sacrament of the Lord's Supper, according to the Rites of the Church of England, within one Year next before his Election; nor shall any Incapacity be incurred by such Omission,

unless such Person be removed, or such Prosecution be commenced, within six Months after his Election. Therefore, I hope, the Reverend Bench will take no Alarum, nor, from what has been said, suppose, that by this Bill, there is any Thing designed against the Church as by Law established; and as I have been informed, that the Law I have mentioned, was passed without any Opposition from the Ministers, I am surprised to find this Bill so warmly opposed by them. This different Behaviour I can no Way account for, but by supposing, that the Secret had not then been found out, which has since been discovered: I mean the great use it may be of to a Minister, to keep Prosecutions hanging over the Heads of Corporations, in order to make them obedient in their Elections. But if Ministers, for this Reason, oppose this Bill, I am sure, it ought to be an Argument with every Lord who is not a Minister to support it with all his Might.

I come now, my Lords, to the last Objection which the noble Lord was pleased to make to this Bill: His Lordship said, that suppose the Bill were both necessary and proper, yet he thought the present a very improper Conjunction for our passing any such Bill, because it would give an Alarum to the People, and make them suspect, that some Attempts upon the Liberties and Privileges of our Corporations had been lately made, which his Lordship thought would be dangerous, at a Time when we are engaged in one War, and like to be engaged in another; and he concluded with saying, that the raising of such a Suspicion would be the more unjust, because there was no Ground for supposing, that our Government had lately made any such Attempts. I shall not say, my Lords, that our Government has, because Government includes the King, and I am convinced, his Ma-

esty never knew any of the illegal Practices used by his Ministers for gaining a Majority in Parliament, or for incroaching upon the Freedom of Elections in our Cities and Boroughs, by threatening them with Prosecutions; but I will say, that there is Ground not only for supposing, but for believing, that our Administration has lately made such Attempts. The Report of the Secret Committee of the other House furnisheth us with very good Grounds for such a Belief; and as that Report has been printed and spread over the whole Kingdom, it has communicated, and, I believe, established this Belief, in every Part of the Kingdom. The Alarum has therefore already been given: By passing this Bill you cannot raise the People's Suspicions higher, or make them more general than they now are; but you may quiet the Alarum, and abolish their Fears, by shewing them, that you have taken Care to prevent any such dangerous Practice for the future.

Thus, my Lords, it must appear, that our being in War, or being like to be engaged in another War, is so far from being an Argument against, that it is a strong Argument for our perfecting and passing this Bill; and if we send it to the other House, I hope, they will have so great a Regard to themselves, as well as their Country, as to give it their ready Concurrence; for I have some Reason to believe, that our Ministers have not as yet got a dead Majority in that House; but if this Bill be not passed in this Parliament, I shall have very little Hopes of ever getting any Bill of this Kind passed in a future Parliament; for as the Secret is now found out, I am persuaded our Ministers, let them be who they will, at the next general Election, will make so good, or rather so wicked an Use of the Power they have over our Cities and Boroughs, as to secure a Majority in the

the future House of Commons. This is my Way of thinking : This is the Way of thinking with most Men in the Nation ; and if an Invasion should happen, whilst this Way of thinking prevails, I tremble for the Consequences : If it should meet with Success, I am sure the Misfortune could not be imputed to those who have endeavoured to reconcile the People to their Sovereign by securing their Liberties : It could with Justice be imputed only to those who have alienated the Affections of the People from their Sovereign, by supporting the Power of his Ministers.

But, my Lords, I cannot conclude without making some Observations upon that new Sort of Doctrine, That in Time of War, or when we are in Danger of an Invasion, it is not a proper Conjuncture for the People to think of having their Liberties secured, or their Grievances redress'd. My Opinion is so contrary, that such a Time I take to be the most proper Time for the People to insist upon having all their Grievances redressed, and their Liberties secured against every apparent Danger. We know how difficult it is in Times of Peace to obtain any Concessions from the Crown, especially when they are such as relate to the Punishment, or the Diminution of the Power of a favourite Minister. When we are engaged in no foreign Broils, nor exposed to any foreign Danger, it is hardly possible to obtain such Concessions without a Civil War. This appears plainly from the whole Tenor of our History, and therefore it is needless to trouble your Lordships with many Examples : I shall mention only that in the Reign of *Richard the IIId*, because it is so very parallel to the present Case, if a Case of much greater Danger can be said to be a Parallel. We were then not only in open War with *France*, but in immediate Danger of being invaded

by an Army of 60,000 Men, assembled at *Sluice* in *Flanders* for that Purpose, and a Fleet of 12 or 1300 Ships actually prepared for transporting them to this Island, and at the same Time we were at War with *Scotland*, and in Danger of an Invasion from thence. Yet the Parliament obstinately refused to grant any Money for supporting the Army then on Foot, till the favourite Ministers were removed, and the Grievances of the Nation redressed, which the King was obliged to comply with, and 14 Commissioners were appointed to take care of the publick Affairs, jointly with the King. The *Romans* likewise, my Lords, we find behaving in the same Manner, in the virtuous Days of that Republick : When the Enemy was at their Gates, they refused to fight, till their Liberties were secured to them, *ut pro patria civibusque, non pro dominis, pugnant*. It is the Consciousness of being a free Subject that makes the Sailor intrepid and the Soldier brave ; for in the Nature of Mankind we find this Paradox confirmed by daily Experience, *That those who are most afraid of Death, are generally those who have least Cause to live*. Therefore in Time of War, in Time of foreign Danger, it is not only proper, but necessary to obtain such Concessions from the Crown, as may free the People from every Apprehension of their Liberties being in Danger.

I have now, I think, answered every Objection made by the learned F Lord to this Bill : If I have not answered them to your Lordships Satisfaction, it must be owing to the Weakness of the Advocate, and not to the Strength of any of the Objections ; therefore, I hope, some other Lord of greater Capacity than G I am, and more accustomed to speak in this House, will rise up and supply my Defects ; for the Bill is so useful and so manifestly necessary, that,

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that, I am convinced, no solid Objection can be made against it.

The next Speaker in this Debate was Sp. Rutilius Crassus, in the Character of the Lord Raymond, whose Speech was to this Effect.

My Lords,

AS I have no great Knowledge of the Law, especially that Part of it which relates to the Practice of our Courts, I shall not pretend to determine how far this Bill may tend to obstruct the Law Proceedings against those Corporations that have not only forfeited, but deserved to be stript of their Charter; for that a Corporation may deserve to be disfranchised, I believe, none of your Lordships will deny; and when we consider, that Mobs, Riots, and Insurrections, generally begin in Cities and corporate Towns, I believe, it will be granted by all those who desire to have the publick Tranquillity preserved, that our Cities and corporate Towns cannot be kept too much under the Eye of the supreme Magistrate. If this Bill should be found to be such an Obstruction to our Law Proceedings, that no Corporation, however guilty, could be prosecuted within the Time limited, which may be the Case if you make that Limitation too short, it must be granted, that the Bill would be attended with very dangerous Consequences; and how far this may be the Case, I say, I shall not pretend to determine. But upon this Occasion, a Doctrine has been advanced, with regard to Prerogative, which I think something new, and am very far from approving of. It has been said, my Lords, that Prerogative is designed solely for the Good of the Society, and that therefore when any Prerogative is so far extended, or exercised in such a Manner, as to be hurtful to the Society, it ceases to be Prerogative,

and comes to be nothing but an illegal Power usurped by Ministers, which not only may, but ought to be abrogated by Statute.

This Doctrine, my Lords, I cannot altogether approve of. I shall A grant, that all the Prerogatives of the Crown are designed for the Good of the Society, so is every Power with which any Magistrate whatever is, or ever was invested. There is no Difference in this Respect between the Powers with which the B Crown is by our Constitution invested, and the Powers with which inferior Magistrates are invested, save only in the Name, those Powers that are lodg'd in the Crown being called by a peculiar Name, Prerogatives; and these Prerogatives as C well as the Powers any inferior Magistrate is invested with, may be made a bad Use of, but are not for that single Reason to be abrogated or restrained; for every Restraint is, in so far as it goes, an actual Abrogation or Annihilation of the Power. D If an inferior Magistrate makes a bad Use of his Power, he may be punished, he ought to be punished; and as the Prerogatives of the Crown are, or by our Constitution are supposed to be exercised, or advised by the Ministers, if they make a bad E Use of them, they ought to be punished; but as the Wisdom of our Ancestors and long Experience have found it necessary for the Good of the Society, and for giving our Government a proper Activity, to lodge such Powers in the Hands of F the Crown, a Prerogative is not to be limited or restrained because a Minister has made a bad Use of it. If this Maxim had been ever allow'd, we should long before now have had no Prerogative left, the G Consequence of which must have been Confusion, or the Establishment of some new Form of Government.

For this Reason, my Lords, when-
ever

ever a Question comes before us about abrogating any of the Prerogatives of the Crown, or limiting, which, as I have said, is abrogating so far as the Limitation extends, we are not to consider whether the Prerogative has been, or whether it may be made a bad Use of: We are to consider only, whether that Prerogative, or that Prerogative without Limitation, be necessary for the Exercise of Government; and as every Abrogation or Limitation, is, in so far, an Alteration of our ancient Constitution, as it is a Sort of taking a Leap in the Dark, and may be attended with many Consequences which human Wisdom cannot foresee, we ought upon such Occasions to proceed with the utmost Caution and Deliberation, neither of which seem to me to have been made Use of in the framing of this Bill.

Our Corporations, my Lords, are, I may say, the Creatures of the Crown. By our Constitution it has always been thought fit to leave the creating of them in the Power of the Crown, and at the Time of their Creation the King may prescribe to them whatever Form and Rules of Government he thinks fit. This Form they are obliged to adhere to, these Rules they are obliged to observe: If they do not, they forfeit their Charter; and the King may, or may not take Advantage of that Forfeiture, as he pleases. This Power has for Time immemorial been lodged in the Crown without Limitation, and has always been thought necessary for preserving the Order and good Government of our Cities and Corporations. But nothing that has been approved of and established by our Ancestors, can, it seems, give Satisfaction to the Reformers of the present Age; and therefore this Prerogative of the Crown is, I find, to be curtailed, and settled according to a new Ma-

del, by which these Reformers pretend our Liberties will be more secure.

Liberty, my Lords, is a favourite Word, and has always been so in every free Country; but it is too often a Mask for Ambition and Lust of Power: *Julius Caesar* made himself Master of *Rome*, in order to preserve the Liberties of *Rome*; and the Contenders for Liberty in *Charles II's Reign*, brought their Country under the absolute Power of *Oliver Cromwell*. I wish we may not be now drawing towards some such fatal Catastrophe; for the Liberties of a free Country are always most in Danger, when the People are most clamorous for Liberty. We have for many Ages preserved our Liberties under our present Form of Government: But no one can tell what may be the Consequence of any Innovation. I hope, the People of this Country will never again give Occasion to say of them as was said of the Plebeians or Commons of *Rome* under their *Decemvirs*: *Avide ruendo ad Libertatem in Servitutem elapsi*. This has once already been our Case: We got free from that Misfortune by a Sort of Miracle; but let us take Care of falling into such another Mischance; for if we do, we may very probably be in for ever.

This, my Lords, makes me afraid of every Innovation. If any Attempts have lately been made upon our Liberties, let us punish the bold Aggressors; but do not let us alter that Constitution under which we have so long preserved our Liberties. What is now proposed will, I think, make a very great Alteration in our Constitution, by taking almost entirely away from the Crown, that Power over Cities and Corporations, which I think absolutely necessary for preserving in them a due Subordination to the Government of their Country; and consequently I

must

must be against the committing of this Bill.

Claudius Marcellus, in the Character of the Earl of Sandwich, stood up next and spoke in Substance thus.

My Lords,

I Shall very readily join with the noble Lord who spoke last, in one Thing he was pleased to say. His Lordship was pleased to observe, that the Liberties of a free Country are never more in Danger than when the People are clamorous for Liberty. In this I agree with him; for the People will never be clamorous for Liberty, but when they feel themselves oppressed. Speculative Notions or florid Harangues will never make a People clamorous: They will never generally cry out till they feel themselves oppressed; and when they feel themselves oppressed, they ought, I hope the People of this Country always will cry out: I hope they will always meet with some leading Men amongst us who will have Compassion enough to give ear to their Cries, and Courage enough to endeavour to relieve them from their Oppressions. In such Cases, 'tis true, the People have often, especially in this Country, been deceived by Leaders, who, as has afterwards appeared, set themselves up as Patrons of Liberty, with no other View but to get into Power, and when they got hold of what they had all along secretly aimed at, began soon to shew themselves as great Oppressors, and as great Enemies to publick Liberty, as any that had gone before them. But is this a Reason for the People's being quiet under Oppression? No, my Lords, it never can be thought so: In this Country, I hope, it never will appear to be so. A brave and virtuous People never will tamely submit

to Slavery or Oppression: If they are deserted or betrayed by one Leader, or by one Set of Leaders, they will chuse another; and very probably make an Example of those that had betrayed them, as they did A in the Reign of Charles the 1st.

It is a Mistake, my Lords, which most Men run into, to think, that Julius Cæsar subverted the Liberties of Rome. They were subverted long before his Time by the Corruption and Venality of the Roman Citizens; B and, indeed, it could not well happen otherwise; for, by their many Conquests, they had made the Top of their Commonwealth too large for the Bottom. Their Governors of Provinces returned with such immense Riches to Rome, that they began to have it in their Power to bribe the Roman Citizens, in whom the whole Power of that great Republick was ultimately lodged; and from the Time the Votes of the Citizens began to be venal, from that Time, I say, they began to be the Slaves of those that could bribe them, that is to say, of a few of their Grandees or rich Citizens. If the Romans had enlarged their Bottom: If they had enlarged the Foundation of their Government in Proportion as they encreased their Conquests, they might have preserved their Freedom much longer than they did; but as soon as a few Citizens became rich enough to corrupt the Fountain of their Government, the People of course became Slaves to a few of the Grandees, and the whole Contention was, which of these Grandees should be the chief Tyrant. These were the Circumstances of Rome, when the Contest happened between Pompey and Julius Cæsar; and therefore, the Contest was not then about overthrowing or establishing the Liberties of Rome, but whether Julius Cæsar or Pompey should be Master of the Romans.

This

This I mention, my Lords, to shew how careful we ought to be, to prevent its being ever in the Power of any one Man, or Set of Men, to corrupt the Fountain of our Government, which I take to be the two Houses of Parliament. Whenever any Thing like this happens, Oppression must ensue; and when the People feel the Oppression, they will clamour: They will by their Clamours, like the Longings in some Distempers, naturally point out the Remedy. The Clamours of the People are always, therefore, a certain Sign of some Distemper, a Sign of some Remedy's being wanting; and if the Court, or Court Party, at such a Time, turn a deaf Ear to the Cries of the People, whatever Consequences may happen, it is not they that seek, but those that refuse Redress, who are answerable for them. What signifies it to tell us, that our Constitution and Liberties were overturned by *Oliver Cromwell*? Will any Lord say, that the People ought to have submitted quietly to the Tyranny and Oppression of King *Charles the First*'s Ministers? I say, his Ministers, my Lords, for I am very far from thinking that he himself was, in his Nature, either oppressive or tyranical; but it is as plain as History and Records can make it, that his whole Reign, from the Beginning to the Year 1640, was a continued Course of Obstinacy and Oppression upon the Side of the Court, and Patience and Suffering upon the Side of the People. The Friends of their Country foresaw, that fatal Consequences might happen from a Civil War: They dreaded, I do not question, all that did really happen, and that made them so loth to engage; but at last they saw, that certain Slavery would be the Consequence of submitting tamely any longer, where-as, by bravely opposing, they had a Chance for the Re-establishment of Liberty.

What happened, therefore, by the Art and Management of *Oliver Cromwell*, can be no Argument for the People to allow themselves to be made Slaves of by the Ministers of any King; because if the Dispute A should unfortunately, as, I hope, it never will, produce a Civil War, and the People should get the better, it is hardly possible to suppose, that the successful General would be able to do as *Oliver Cromwell* did; for he was not only in himself a Prodigy of Art, and of Simulation as well as Dissimulation, but he had under his Command an Army of Enthusiasts, who, of all Sorts of Men, are the most liable to be deceived by one who has got the Key, and knows how to touch the proper B String of their Madness. But on the other hand, what happened under King *Charles the First*, ought to be a Warning to all future Kings and Ministers, to listen to the Cries of the People, and not refuse obstinately what the Majority of the Nation think absolutely necessary for securing their Liberties against supposed Dangers. Let those Dangers be ever so imaginary, if the People cannot be persuaded that they are so, something ought to be done, some Concessions ought to be made by the Court, in order to give the People Satisfaction; and our Histories may shew us, that the People of this Country are but too easily satisfied; which is the chief Reason of our Constitution's being so often in want of mending.

C It is really pleasant to hear some Lords talk of Innovations in our Constitution, as if they were monstrous and rare Appearances. For God sake, my Lords, what are the Laws we pass yearly? Is not every publick Law an Innovation in our Constitution? Do not we thereby add to, alter, or abridge, some of the Powers or Prerogatives of the Crown? If we had not made many Laws for

this Purpose, can it be said, we should now have had any Liberty left? Criminals are every Day inventing new Crimes, or new Methods for evading the Laws that have been made for punishing or preventing them, which obliges us almost every Year to pass new Laws against them: By these the Power of the Crown is generally enlarged. Ministers again are almost always contriving new Methods for extending the Prerogatives of the Crown to the Oppression of the People, which obliges us to be often contriving new Laws for restraining them: By these the Power of the Crown, I shall grant, is lessened. What then? Is not our Government a limited Monarchy? Is not the Power of the Crown limited by our Constitution and Laws? If by Experience it be found, that the Power of the Crown is not, in some Cases, sufficiently limited by the Laws in being, must not we, ought we not to contrive new Laws for that Purpose? Lords may, if they please, call this an Incroachment upon the Prerogatives of the Crown: I shall not fall out with them about the Term, because I think the Prerogative may, and ought to be incroached on, and restrained, as often as Experience convinces us that it is too extensive, or that it may be turned to a wrong Use.

This, my Lords, is the very Case now before us: Very late Experience has convinced us, that, with regard to the Power the Crown has of prosecuting Corporations or Officers of Corporations, upon any Departure from, or Misusage of their Charter, whenever it pleases, or delaying to bring the Prosecution as long as it pleases: I say, Experience has convinced us, that this Power, or Prerogative if you will, is too extensive: A new ministerial Trick for extending this Prerogative to the Oppression of the People, was

but last Session discovered; and now it is discovered, shall not we contrive some new Law for preventing this dangerous Practice? A Practice, my Lords, by which our Constitution must very soon, if not prevented, be fundamentally overturn'd. To talk of Prerogative upon such an Occasion, and to boggle at making any Incroachment upon it, seems to me to be shewing a much greater Concern for the Prerogatives of the Crown than for the Liberties of the People, which, I am sure, none of your Lordships would be guilty of. I hope you will always disdain the Guilt: I think you should avoid even the Appearance of it; and if you have a Mind to do so, you must agree to the committing of this Bill.

I am surprised, my Lords, to hear this Bill represented as such an outrageous Incroachment upon the Prerogatives of the Crown, or as if the Crown were thereby to be deprived of the Power to keep any Corporation to the strict Observance of their Charter. There is no such Thing designed by the Bill: The Power of the Crown is not in this Respect to be in the least diminished. The Ministers of the Crown only are to be obliged to be a little watchful, and to prosecute within a certain Time, if thought at all necessary, after the Misusage, or the Forfeiture incur'd; and surely if the Misusage be such a one as deserves Punishment, or such a one as necessarily requires to be rectify'd, the sooner it is done it will be the better for the Publick, and consequently for the Crown. If Ministers should be so negligent as to let the Time to be limited elapse without Prosecution, the Crown will always have a Power to punish them sufficiently for their Negligence, by removing them from their Employments; and therefore we can never suppose, they will be so negligent, where the Honour or Interest of the Crown is really concerned.

cerned. But this is seldom or never the Case: These Misusages or Neglects are generally with regard to some little Informalities or irregular Proceedings of no Consequence either to the Crown or the Corporation, and would never be prosecuted by Ministers, if they had nothing else in View beside the Interest of the Crown; but when they are prosecuted, they subject the Corporation to the Forfeiture of their Charter, which puts them to the Expence of obtaining a new one; or they subject the Officer to a Forfeiture of his Office, and perhaps a Penalty, or at least Costs of Suit, if Judgment goes against him: This Danger, which almost all Corporations, and Officers of Corporations, are, more or less, exposed to, and which may now be kept hanging over the Head of an Officer during his whole Life, if he continues so long in his Office, our Ministers have lately begun to make a Handle of, for influencing Corporations in the Election of their Representatives in Parliament; and as this is of the most dangerous Consequence to our Constitution, it is incumbent upon your Lordships to contrive and pass some new Law for preventing it. Whether this Bill, as it now stands, will be effectual for the Purpose, I shall not take upon me to determine; but if it is not, it can be no Argument against committing it, because in the Committee it may be rendered effectual.

The threatening of Corporations with *Quo Warranto's*, in order to influence their Elections, is a Practice, my Lords, that has been set on Foot by wicked Ministers long before this Time; and a Case that was before us this very Session may shew, how difficult it is for a Corporation to guard against a Forfeiture of its Charter. The Report of the Secret Committee will shew us, how a *Quo Warranto* came to be spirited

up against that Corporation; and your Lordships Judgment, as well as the Opinion of the Judges, will shew, that a Corporation may lose its Charter, not only by a Misuser, but by a Misinterpretation of the Words of their Charter. A Misinterpretation I must now call it, since your Lordships have decreed it to be so; but I must still think, that your Lordships in that Case shew'd a little too much Deference to the Opinion of the Judges. For my own Part, when I recollect the Behaviour of our Judges, and the Opinions they gave, in *Richard the II'd's* Time, in *Charles the Ist's* Time, and in *James the II'd's* Time, I shall never think their Opinion of any great Weight, when it happens to be in favour of the Crown, or of those that recommend them to their Seats upon the Bench. The Meaning put by that Corporation upon the Words of their Charter, was first put by those that were concerned in obtaining the Charter, who were certainly the best Judges of what was intended to be meant by the Words of it; for it is very certain that the Busines of drawing up a Charter is always committed chiefly to those that apply for it: They, with the Assistance of their owe Council, are always the first Draughts-Men, and the King's Council only peruse it, to see that there is nothing in it that may be prejudicial to the Crown; from whence it must be presumed, that they were the best Judges of what was intended to be meant by the Words they had inserted; and the Meaning they put upon them was, in my Opinion, agreeable to common Sense and common Reason. That Meaning was held to be right for near 130 Years; but at last was contested by those who were resolv'd at any Rate to overturn that Corporation's Charter, because at the last Election they refused to betray the Liberties of their Country, by chusing such

such Representatives as were recommended to them by the Court; and now, by the Opinion of the Judges, confirmed by your Lordships, that Meaning has been declared to be wrong, and a Meaning put upon those Words, which by Accident may make near as many Aldermen as there are Burgessies in that Borough. I shall always be ready, my Lords, to submit to the Authority of this august Assembly; but even your Lordships Authority cannot make me think that to be wrong, which, in common Sense and common Reason, I am persuaded to be right; and I must recommend this Remark to our Sages of the Law, That, in this Country, thank God! from the Time of *Alfred the Great* to this very Day, Justice has seldom failed to overtake the Bewrayers of Justice. She does, 'tis true, sometimes seem to halt a little; but

*Raro antecedentem Scelorum
Deseruit pede pena clando.*

I hope your Lordships will pardon my enlarging upon this famous Case so lately decided; for I could not omit mentioning it, because upon the Supposition that your Lordships were right in the Judgment you gave, which I must now suppose, it is a manifest Proof, that Corporations may be innocently led into a Forfeiture of their Charter; and therefore it is neither just nor safe to leave them always exposed to the Prosecutions of Ministers upon any such Account. If the Bill is not properly calculated for obviating all the Difficulties and Dangers that may be apprehended, I hope, we shall, in the Committee, have the Assistance of the learned Lord upon the Wool-sack, towards making it a compleat and useful Bill: I hope we shall have the Assistance of some other Lords, who, by their former Conduct, have shewn themselves no Enemies to Restraints upon the Prerogatives of the Crown, when Ex-

A perience makes them appear to be necessary; and have even seemed to think, that some Restraint were become necessary in the Case now under our Consideration. By this Assistance, I hope, we shall be able to perfect the Bill in the Committee, and therefore I shall be for agreeing to the Motion.

The next Speech I shall give in this Debate, was that made by M. Cato, in the Character of the Earl of Bath, the Purport of which was as follows, viz.

My Lords,

I Had at first no Thoughts of giving your Lordships any Trouble in this Debate, because the Bill is so very imperfect, that I did not think the Question would stand a Debate; but as I now think myself called on, I hope your Lordships will excuse my taking up a little of your Time, in order to shew, that this Bill is quite different from any Thing I ever thought of or proposed upon this Head, and that it will no Way answer the End for which it is said to be intended. I never thought, my Lords, that the Power the Crown has of prosecuting Corporations, when they are guilty of great and notorious Usurpations or Misusers of their Charter, should either be taken away or limited to any Time; for if the Power of Prosecution were taken away from the Crown, those who have once got the Magistracy or Power of a Corporation into their Hands, might be guilty of very great Oppressions, and if the Power of prosecuting were to be limited to any Time, many Usurpations might thereby be established, which would in the End become very oppressive. Usurpations, my Lords, are often made, and continued for a long Time, before any of the King's Officers can hear of them: When these Usurpations are first made, and generally

nerally for some Years afterwards, Care is taken to make a very gentle Use of them, which prevents any Complaint; and till the People of the Corporation begin to complain, none of the King's Officers or Servants can ever hear of the Usurpation; so that if the Time for prosecuting were limited, the most dangerous Usurpation, by a little Care and gentle Usage at the Beginning, might be never heard of till the Time were expired for prosecuting, and then I do not see how it could be removed. This might occasion the Ruin of many of our Cities and Corporations, for it is not to be supposed, that a Corporation can thrive where the Magistrates are invested with great and oppressive Powers, because one or other of them will every now and then be making Use of the Power he has got into his Hands, to the Oppression, perhaps Ruin, of some of the Members; and this will make every wise Man remove from that Corporation as soon as he can.

As I always foresaw, my Lords, that this would be the Consequence of taking from the Crown, or limiting to any Time, its Power of prosecuting Corporations, or the Officers of Corporations, for great or dangerous Usurpations or Misusers, I could never think of, much less propose a Bill for such a Purpose. What I thought of was a Bill for preventing Corporations suffering by mere Oversight, or a Neglect of some little Formalities or Ceremonies, required by Charter or Custom, which are in themselves of no Consequence. Such Formalities or Ceremonies many of our Corporations are subjected to, and may suffer by a Non-observance of. Nay, many of our Manors or Land Estates, are subjected by their Tenure to Formalities or Ceremonies that are in themselves ridiculous. I myself know a Gentleman that holds his Estate by this Tenure: As our

A Kings of old had often used to travel into, or make a Progress thro' several Parts of the Kingdom, this Gentleman is by his Tenure obliged to be at such a Corner of his Estate every Time the King passes by, and to have under each Arm a white Capon. This of itself is a little ridiculous; but there is something still more ridiculous. What is he to do with those Capons? He is not to present them to his Majesty: There would be some Sense in this, because B in antient Times the King might, perhaps, have wanted a Dinner; but, after he has shewn his Capons, he is to carry them back again, and dispose of them in whatever Manner he pleases.

C There are many of our Corporations, I believe, which are subject to, and may suffer by the Neglect of Formalities or Ceremonies equally ridiculous with this, or at least, such as are in themselves of no Consequence whether they be observed or no; and against this I should be glad

D to see our Cities and Boroughs guarded by a proper Law; but surely it will not be said, that the Bill now before us is proper for this Purpose. My Lords, it is far from being proper even for the Purpose for which it is said to be intended, which is, E to put it out of the Power of Ministers to keep a Prosecution hanging over a Corporation, or over the Head of any Officer of a Corporation, in order to influence the Election of their Representatives in Parliament. Will the Bill be effectual

F for this Purpose? Not at all, my Lords. As to the Corporation itself, there is no Time proposed to be limited for bringing a Prosecution against it on Account of any Forfeiture incurred; so that a Minister might still, notwithstanding this Bill's being passed into a Law, keep a Prosecution hanging over a Corporation, and, consequently, over the Head of every Magistrate and Officer

Officer belonging to it, as long as he pleased; and if the Corporation itself should, by the Judgment of a Court, be dissolved, I hope it will not be said, that any Magistrate or Officer belonging to it, could be continued in the Exercise of his Office. Then as to the Magistrates and Officers themselves, if this Bill were passed into a Law, they could not, indeed, be prosecuted or removed, unless prosecuted within the Time limited; and as to those Magistrates and Officers that are in for Life, this might have some Effect: But let us consider, my Lords, that most of the Magistrates and Officers of Corporations are chosen annually, and, consequently, a Minister might allow an irregular Election to go on for a great Number of Years, and yet bring a Prosecution upon that very Account against the first Officer or Magistrate that should prove refractory to his Commands at an Election. In like Manner, a Minister might allow an Officer to be annually chosen, notwithstanding some Disability or want of Qualification in that Officer; and yet, whenever he pleased, he might bring a Prosecution against him; because such Prosecution might always be brought within the Time limited after his last Election.

These few Remarks, my Lords, will shew, that the Bill, in its present Form, will be very far from being effectual, even for the End it is said to be intended for; and they will likewise, I think, shew, that it will be very difficult to draw up a Bill sufficient for putting it out of the Power of a Minister to gain an Influence over the Elections of our Cities and Boroughs, by threatening them with Prosecutions, without taking away from the Crown the Power of prosecuting a Corporation, or Officer of a Corporation, for any Misuse, Neglect, Disability, or Usur-

pation whatsoever; and this I am persuaded your Lordships do not intend; for it would be setting up an *Imperium*, or rather a great Number of *Imperiums in Imperio*, which would certainly breed Confusion. Thus your Lordships must see, that this Bill is very different from any Bill I ever thought of, and that the contriving and right modelling a Bill sufficient for obviating the Evil complained of, without exposing the Nation to a new and more dangerous Evil, is a Task too difficult for us to think of accomplishing it in a Committee upon this Bill. Such a Bill must be drawn up at great Leisure, and with the most mature Deliberation; and even after that, I should be for having it printed and dispersed, that People without Doors might have an Opportunity to consider it, before your Lordships gave yourselves the Trouble of going into a Committee upon it.

And now, my Lords, I shall conclude with declaring, that I shall never be ashamed, but on the contrary always ready, to alter my Opinion, when I find good Reasons for doing so. *Humanum est errare*; and it is the Part of a candid and honest Man to acknowledge it, when he finds he has been in an Error: Nothing but Pride can prevent his acknowledging it; and a Man must have a very bad Heart, if he continues to act upon an erroneous Principle, after he is convinced of its being so. But, in the present Case, from what I have said, I hope, it will appear, that without being suspected of having altered my Opinion, or of acting contrary to my Opinion, I may freely give my Negative to the committing of this Bill.

[*This JOURNAL to be continued in our next.*]

TRIAL

TRIAL in relation to JAMES ANNESLEY, Esq; and the Earl of ANGLESEY, continued from p. 133.

WILLIAM Elmes says, He remembers Lord and Lady Altham living at Dunmain, and resorted there to my Lord sometimes as a Neighbour, and sometimes on Business; that he remembers Joan Laffan and Joan Landy, who was the Kitchen Maid, and was with Child at the Time my Lady came first to Dunmain, and at that Time in my Lord's Service there: Says, Joan Landy left the House soon after my Lady came, and believes she went away because she was with Child: Says, that when she left my Lord's House she went to her Father's, James Landy, who had a House on the Lands of Dunmain, where she was brought to Bed of a Boy; that her Brother told Deponent of her being brought to Bed, and Deponent went to see her at her Father's, in about a Week or ten Days after she was deliver'd: Says, that having a Curiosity to know who the Father of the Child was, Deponent asked her the Question, to which she answered it was my Lord's Child; and Deponent saw the Child from Time to Time afterwards when it was about Half a Year old, and a Year old, at Joan Landy's Father's House: Says, that after the Separation of Lord and Lady Altham, when Lady Altham had quitted the House, the Child was brought there, being then, as near as Deponent could judge, not less than three Years old: Says, he saw the Child at the House of James Landy (his Grandfather) when he was about two Years old, and that the said House was about a Quarter of a Mile from Dunmain. Being ask'd, if there was any Coach-road made from my Lord's House to Joan Landy's; says, there was no Road made, but only a short Way

my Lord made to go a hunting; that there being a Slough there, the same was thrown up on each Side to make it passable. Being ask'd, if the Child he saw at Dunmain House was the same he saw at James Landy's the Grandfather, says, it was the same Child, and that one Day as Deponent came to Dunmain, he met my Lord at the Door, and the Child was there at that Time, and while Deponent stood there, Joan Landy looked in at the Gate, and my Lord esp'y'd her, and called out to his Servants, with an Oath, to bring out the Hounds, and set them at the Whore, for that he would not, for 500*l.* let the Boy know that that Whore was his Mother. Says, he never heard that my Lady Altham had a Child, and that the Child he saw was always reputed a Bastard, and never was at Dunmain House during my Lady's Abode there, but was kept all that Time at old Landy's House. Says, he never saw any other Boy at Dunmain House but Landy's Child; D and that when the Child was at old Landy's House, he was clad in Rags, with Flannel Blankets about him, but when he came to Dunmain House, Lord Altham sent for a Taylor, and ordered him some Cloaths. Says, Joan Landy herself nursed the Child; E is sure there was no new Road made, but that a Coach might drive that Way, it being a Field. Being ask'd if he knew Joan Laffan; says, he did, and that she was in my Lord's Service as a Laundry-Maid, and was there in my Lady's Time, and for some Time afterwards. Being ask'd, if he ever saw a Child in the Care of Joan Laffan; says, he never did. Being ask'd, if he thought she ought to be believed upon her Oath; says, he does not think she ought to be believed.

Deponent's Evidence being a manifest Contradiction to Joan Laffan, she was ordered to come upon the Table in order to confront this Witness.

Joan

Joan Laffan being asked, if she knew Mr. William Elmes, and whether he is an honest Man; says, she does know him, and believes he is an honest Man.

William Elmes being asked the same Question as to *Joan Laffan*; says, he knew her very well, that she was charged with stealing several Goods out of my Lord's House, after he had left *Dunmain*; says, he was at that Time High-Constable, and that there being a Search made for the said stolen Goods, Deponent saw a Feather-Bed, a Coop, and an old Barrel at *Joan Laffan's* Brother's House, and a Pair of Buckles in her Brother's Shoes, but cannot say they were Lord *Altham's*; says, *Joan Laffan* at that Time was at her Brother's House, and that all the Goods were brought back to *Dunmain* House as the Property of his Lordship. That he often saw *Joan Laffan* at *Dunmain* House, and spoke to her, and is positive she was Laundry-maid. Remembers particularly that as Deponent one Day in passing by was speaking to her, my Lord missed Deponent, and finding him in Conversation with her, his Lordship said, *Will, you are going to kiss my Maid.*

Joan Laffan denied that she ever spoke to *Elmes* at *Dunmain*, or ever saw him at *Dunmain* House above once, and says, that the Feathers (which were in the Bed so found in her Brother's House) were Feathers which were in an old Stand at the House at *Dunmain*, and had been given her by my Lord, with several earthen Plates, and other little Things not worth removing; but that the Ticking in which the Feathers were put, was bought by Deponent at *Waterford*. Says, that she never was Laundry-maid, but Dry-nurse, and attended Master *James Annesley*, my Lord and Lady *Altham's* Son; described *Landy's* House, and the Road made to it, as she did before. *William Elmes* contradicted her as to

the House, but agreed there was such a Road made, and that altho' they might go that Way to Captain *Giffard's*, yet the Road was made no farther than to the Cabbin.

Mrs. Anne Giffard says, She was very well acquainted with the late Lord and Lady *Altham*, and remembers my Lady's first coming to *Dunmain*; that Deponent at that Time lived within a Mile and an Half of *Dunmain*; that it was a little before *Christmas*, and Deponent visited her in the *Christmas* Holy-days, and her Ladyship returned the Visit, and they visited each other frequently, while her Ladyship continued at *Dunmain*. Says, that she believed my Lady came first to *Dunmain* in 1713, and continued there about 3 Years or better; says, she never observed my Lady to be with Child, nor never heard, nor does Deponent believe she was, and believes it was impossible for her Ladyship to be with Child without Deponent's seeing or hearing of it. That Deponent was often in my Lady's Dressing-room, and saw her dress herself, and was never a Month without seeing her Ladyship, while she was at *Dunmain*; says, she never heard my Lady say she was with Child; on the contrary, remembers that Deponent being herself with Child, when my Lady came to *Dunmain*, was one Day somewhat melancholy, and complained a little to my Lady of the Trouble it gave her; upon which her Ladyship said, *What, do you complain? I wish I was in the same Condition*; that the Child Deponent was then big of, was afterwards born, and is since dead, and if he was now alive, would be between 29 and 30 Years of Age.

Mr. Thomas Palliser, Junior, says, He was acquainted with my Lord and Lady *Altham* when they lived at *Dunmain*; that Deponent was then very young, but can't tell what Age he was of, only that he went then to

School in Ross; that Deponent's Father and Mother then lived at the Great Island, three Miles from Dunmain. Says, he was frequently between his Father and Lord Altham's House, believes he was acquainted with my Lord when he first came to A Dunmain, and before my Lady Altham came, and used to hunt with my Lord, and he furnished Deponent with Horses; and says, his Lordship hunted frequently. Says, he does not believe 'twas reported that Lady Altham was with Child; remembers my Lady came there some Time in 1713; and Deponent was frequently there after her Ladyship came, and spent more of his Time in Dunmain while my Lord and Lady lived there than at Ross; and says, that during all that Time Deponent neither heard or believed that my Lady was with Child, and is convinced in his Conscience she never had a Child; and if any such Thing had been, he thinks he should have known it, considering his great Intimacy and Continuance in the Family. Says, that four or five Days before the Separation, as my Lord, Mr. Sutton (the Surgeon,) Mr. Taylor (my Lord's Receiver,) and Deponent were coming home from Burtown, my Lord told Deponent, he was determined to part with his Lady; and upon Deponent's asking him his Reasons, my Lord reply'd, *I find Lord Anglesey will not be in Friendship with me, while I live with this Woman; and since I have no Child by her, I will part with her.* To which Deponent made answer, *My Lord, you may do what you please; but I would not part with my Wife to please any body.* Believes, that Taylor and Sutton had laid a Scheme against Deponent, and brought my Lord into it; for Deponent having a Night or two before informed my Lady G that they used to drink my Lord's Wine, they heard of it and were determined to be revenged on Depo-

nent; says, that on the Sunday Morning my Lord came to Deponent's Bedside and waked him, and Deponent remembers he had dreamed, a little Time before, *that my Lord had put out his Eye;* and my Lord desired Deponent to rise, for that he was going to Church; upon which Deponent offered to go along with his Lordship, but he said, Deponent must stay at home to keep my Lady Company; to which Deponent reply'd, that Taylor and Sutton were at B home; but my Lord said, they were not fit Company, and insisted on Deponent's staying; and told Deponent, that as he was to hunt the next Morning, if Deponent rid his Horse that Day he would not be able to carry him, and therefore desired Deponent to stay and breakfast with my Lady, and then his Lordship went down Stairs. That Deponent accordingly went down into my Lady's Room, where he had often breakfasted before. That Deponent, having been some Time with C my Lady, heard a Noise, and presently my Lord came into the Room with some of the Servants, and having a drawn Sword in his Hand made a Thurst at Deponent, and one Anthony Dyer, his Servant, took the Sword out of his Hand; Deponent being then hurried into another Room, one of the Servants cut a Piece off of Deponent's Ear. [And Deponent took off his Wig, to shew in what Manner his Ear was cut.] That (upon the Oath he had taken) he never attempted the Virtue of F Lady Altham in any Respect, and that she was intirely innocent with respect to him; and says, that at the Time he received that Usage there was no Child in the Room, nor did Deponent ever see any Child in the House; says, my Lady usually breakfasted in Bed.

There being such Contradiction between this Witness's Testimony and Joan Laffan's, who sayore, that at

this Time she had the Child in her Hand, and that he pointed at the Blood of Mr. Palliser's Ear; and it being apprehended that Joan Laffan had said that the Ear was cut off, whereas it appeared it was not, and that only a Piece of it was cut off, A the Court ordered Joan Laffan to be called, and that the respective Attorneys should go to her immediately, for fear of her being tator'd, previous to her coming on the Table.

Mr. Palliser was continued to be examined till she appeared, as follows. Being ask'd, what Servants there were in the House at this Time; says, he remembers Anthony Dyer and Charles the Butler, whose Surname Deponent does not recollect, and remembers Mrs. Heath and Joan Laffan there. Being asked, if he saw any Child in her Arms, or in the Arms of any other Person in the House; says, he never saw a Child in Joan Laffan's Arms, or in my Lady's Arms, or in the Arms of any Servant in the House. Being asked, in what Station Laffan was employ'd, and what his Opinion of her is; says, she used to wash the Parlour, and takes her to be a vile Woman; and is sure that not a Man in the Country heard that Lady Altham had a Child. Being asked, what Character Mr. Elms bears; says, he would venture to affirm, that there is not one Gentleman in the Country that would give Mr. Elms a bad Character.

Being cross examined, says, He believes Lord Altham call'd Deponent out of Bed in order to execute his wicked Purpose against my Lady, his Lordship taking it for granted, that when he was gone from the House, Deponent would go into my Lady's Room, as he usually did, for the Sake of Company, and then upon his Return, finding him there G as he expected, made that a Pretence for parting with her. Says, it was only a Pretence, for that for the

most Part Deponent used to breakfast with her Ladyship by my Lord's own Directions.

Joan Laffan being come upon the Table, and being directed by the Court to repeat the Account she had before given of the Separation, and the Occasion of it; says, that Mr. Palliser behaved very ill to the Servants; that he put some Horse-Jallap into some of their Drink, and used to tell my Lady Lies of them; for which Reason he was so little regarded by them, that he was forced to wash his own Stockings; that my Lord laid a Plot against him with some of the Servants, and made Anthony Dyer and the other Servants take an Oath of Secrecy; that on the Sunday Morning there was a Fire ordered in my Lady's Room, and my Lord pretended to my Lady that he was obliged to go out to Dinner; that Mr. Palliser breakfasted with my Lord, and they had a Bottle of mull'd Wine for Breakfast; that as soon as my Lord was gone out, Mr. Palliser went into my Lady's Room, and the Plot having been laid before, a Signal was made, which brought my Lord back; that my Lord run up with his Sword, and had him brought out of the Room, and the Groom came to Palliser and said to him, Is this the Way you keep my Lady Company? and took out a Cafe-knife in order to cut his Nose, but he was order'd only to cut his Ear. That Deponent was standing by in the Room, and she had the Child in her Hand, and he shew'd her the Blood out of Palliser's Ear; says, it was the soft Part of the Ear that was cut; and the Child pointed at the Blood that came out of the Ear. Says, that Palliser was found in the Room with my Lord's Silk Night-Cap on his Head, but had his Hat and Wig on at Breakfast. Says, that when her Ladyship breakfasted in her Room, Deponent attended her; but when

when she breakfasted in the Parlour, some of the other Servants did. Says, that no Man was ever admitted into her Bed-room to Breakfast. Being ask'd, what Time she came into the Service, and how old the Child was at that Time ; says, she lived with Col. *Dean* when K. *George* came to the Crown, and that she came into my Lord's Service in 1715, and that the Child was then about three Months old, and has seen Mr. *Palliser* often play with him.

Mr. *Palliser* being asked, if he saw a Child in her Arms ; says, he did not. But *Joan Laffan* swore he did. And she farther said, it was about Harvest-time that she came into my Lords Service.

The Court said, that Laffan had sworn nothing contrary to her former Testimony ; that she had only explain'd what she meant by the Ear's being cut in her first Examination : But declared their Surprise at the Contradiction of the Evidence on both Sides.

Mr. *Palliser* continued to be cross examined. Being ask'd, if he ever saw *Joan Laffan* attend my Lady at Breakfast ; says, he never did ; that it was Mrs. *Heath* who always attended her ; for that my Lady was a proud Woman, and did not love to have low Servants about her. Being asked, if he ever breakfasted below E Stairs before with my Lady ; says, he did, and was frequently desired by my Lord so to do. Says, he breakfasted with my Lady several Times the very Week before the Separation, and my Lord knew it. Being asked, how many Days it was before parting that he had that Conversation with my Lord ; says, about four or five Days, but does not remember what Day ; says, that *Taylor* and *Sutton* rode before my Lord at the Time of the Conversation, and his Lordship seemed melancholy. G Being asked, where he breakfasted that Morning ; says, in *Sots-hole*, and that *Taylor* and *Sutton* breakfasted

with them. Being asked, what the Breakfast was ; says, he believes there was mull'd Wine for Breakfast, as the Woman (*Laffan*) said. Being ask'd, what Cap he wore the Morning of the Separation, and if it was a Silk Cap, says, he does not know what Cap he wore, or if he changed Caps, but believes it was not a Silk Cap he wore ; says, he knows nothing of a Silk Night-cap, nor what Night-cap my Lord wore. Says, that he often breakfasted with my Lady when my Lord was not with her. Says, my Lady generally was in Bed with nothing on but a loose Gown or Wrapper ; but the Maid was generally backward and forward in the Room, and knows not but it was by Direction of my Lord. Being asked, what Steps he took to resent the Usage he had met with from my Lord *Altham* ; says, he sent him a Challenge the next Morning, and posted his Lordship for not meeting him ; and that his Father likewise challenged my Lord to fight him, if his Lordship thought Deponent too young an Antagonist. Says, my Lord went out of the Country soon after, and Deponent pursued him out of Town with Pistols. Being asked, what Time my Lord left the Country ; says, he does not know, but thinks he left it in 1717. Being asked, whether he did not receive several Blows the Morning of the Separation ; says, he did, and fell down, and was stunn'd with the Blows. Says, the Occasion of his going into his Lady's Room that Morning, was to carry her a Lap-dog she was fond of, and swears he did not go with any criminal Intent.

Thomas Ralph says, That he was very well acquainted with my Lord and Lady *Altham* ; that he knew my Lord first in *England*, before he came to *Ireland* ; that my Lord came to *Ireland* before my Lady ; that they came to *Dunmain* a little before *Christmas*, 1713, and Depo-

nent was in the Service before that Time as Butler, and continued there till the latter End of 1715, and was about a Year and a Half Servant there. Says, he never heard that my Lady was with Child ; that Deponent waited upon her twice a-day, A at Dinner and Supper, and never saw a Child at *Dunmain*, nor ever saw any Signs of my Lady's being with Child, nor ever heard any Discourse like it, but has heard both my Lord and Lady wish they had a Child. Being asked, if he knows any Thing about *Joan Landy* ; says, *Joan Landy* was turned away for bearing with Child, and after her leaving *Dunmain House*, she went to a Cottage, or Hutt of her Father's at the *Sheep Walk*, and there she was brought to Bed. Says, that in two or three Days after she was brought to Bed, Deponent went to the House where she was, because it was reported my Lord *Altham* was the Father of her Child, and Deponent took the Child in his Arms, to see if he could find out who it was like, D and asked her who she laid it to ? Upon which she said, to my Lord : Deponent told her she was in the Right of it, for that nobody was better able to maintain it ; and says, the Reason of his looking so at the Child, to find who he was like, was, that he knew others had lain with the Child's Mother. Being asked, what Kind of Hutt it was that *Joan Landy* liv'd in ; says, it was a little Hutt, and she lay where her Father, Mother, and Brother, on some Straw, altogether, and there were Stakes drove into the Ground to keep the Straw up ; that it was all one Room, and there was a Fire-place on the Left-hand, but cannot tell if there was a Chimney in it. Says, there was no Partition, but a Hurdle fixed to the Ground to keep up the Straw ; and as long as Deponent lived at *Dunmain* the Child lived there with his Mother. Says, the Hurdle was

about four or five Foot high. Says, that when he came into the Room, he had a full View of the House, and that there was no Window to it, and neither Chairs nor Tables. Says, the Cabbin was in the same Condition when Deponent first went there, as it was when Deponent left *Ireland*, and is sure there was no Alteration made in it, for if there had, Deponent should have seen it. Being ask'd, how the Child was dress'd ; says, he was dressed in a Blanket ; that Deponent never saw the Child at *Dunmain House*, for it was never suffered to come there. That Lady *Altham* had forbid *Joan Landy* to come near the House, as he supposes, because of the Report of its being my Lord's Child. Being ask'd, C if Lady *Altham* ever went to *Landy's* Cabbin or Hutt ; says, she never did, for that she was too proud to go to such a poor Place. Says, that Mr. *M'Kercher* came to Deponent, to his House in *Mary le Bon* in *England*, and sent a Dinner there, and invited Deponent to dine with him, and asked, him several Questions, whether Lady *Altham* had a Child, and what Servants were in the House in Deponent's Time, and asked Deponent if he would accept of a Lieutenancy. Being asked, who christened *Joan Landy's* Child ; says, he has heard it he was christened by one *Downs*, a Priest, at a Village call'd *Nafth*, and that he was called *James*. Being ask'd, when he came into my Lord's Service ; says, in 1711, or 1712, and continued there for a Year and E a Half after my Lady came to *Dunmain*. Being asked, if the Child was reputed to be his, as he was so curious to know who he was like ; says, it never was, but believes it to be the present Earl of *Anglesey's*, and that Lord *Altham* knew it was only father'd on him. [The Court observed, that this Dirt would do the Defendant's Cause no Service.] G

Anthony Dwyer says, He waited on

on Lord *Altham* five or six Years, and his Lordship lived at *Dunmain* when Deponent came to him; can't tell when my Lady came to *Dunmain*, but Deponent was in my Lord's Service before her coming, and after her going away. Being A asked, if he ever knew my Lady was with Child, or had a Child; says, he never did, till within this Year. Being asked, if he remembers the Names of any of the Servants; says, he remembers the Names of some of them: *John Wheedon* was B Coachman, *Mrs. Heath* was my Lady's Woman, and *Joan Landy* was Kitchen-maid under the Cook, and continued there for two Months, till she was turn'd away; that she was with Child when my Lady came to *Dunmain*, and it being reported that C she was with Child by my Lord, she was turn'd out of the House, and went to her Father's, who lived in a Cabbin near the Lands; and Deponent saw the Child in about a Fortnight after her Delivery, and the Child she was delivered of was called D *James Landy*; and her Father lived in that Cabbin after the Child was born. Being ask'd, what Sort of a Cabbin it was; says, it was a very poor one; that it was all one Room, and no Glass Window in it; that there was a Bush which was pulled E in and out instead of a Door; that there were Stakes drove into the Ground in the Cabbin and Straw Beds. Says, he never saw Lady *Altham* have a Child or handle a Child; but *Joan Landy* used to come by F stealth the Back-way to the Stables and bring her Child, in order to get some Subsistence from the Butler. She used to say, she was always afraid, because of her having father'd the Child on my Lord. Says, he never saw a Christening at G *Dunmain* House, or any Bonfires there on any such Occasion. Being ask'd, how old *Juggy Landy*'s Child was when he saw him last; says, he cannot tell, but saw him in a Month af-

ter his Birth; and says, *Juggy Landy* used to leave him with some of the Helpers at the Stable, when she went into the House for Subsistence.

Mary *Heath* sworn to the *Voir Dire*, Admits that she had some of my Lady *Altham*'s Effects when she died, and that the Lessor of the Plaintiff had filed a Bill against her in *England*, as Administrator to my Lady; whereupon the Counsel for the Plaintiff said, it appeared that the Lessor of the Plaintiff was out of the Kindom when Lady *Altham* died; that it likewise appeared by *Heath*'s Confession, that there being nobody intitled to take out Administration, she had possessed herself of my Lady's Effects; that Mr. *Annesley* having, since his Return, obtained the Administration, had filed a Bill against *Heath*, for an Account of those Effects; to which, altho' served with a Subpoena, she had never yet thought fit to put in her Answer; so that it was plain she was interested in the Event of the present Question; and therefore they hoped, as she was under such a Bias, she should not be admitted an Evidence in this Cause. But the Counsel for the Plaintiff being called upon to produce the Letters of Administration, and the same not being produced, the Counsel for the Defendant insisted, that the Plaintiff having failed in proving the Grant of the Adminstration, which was the Foundation of his Right to the Effects, and consequently the very Basis of his Objection to the Competency of the Witness, his Objection must fall to the Ground. That if the filing a Bill against a Witness, who was intended to be examined, would destroy that Witness's Competency, it would be in the Power of any Party to hinder the Witnesses against him from being examined, at the Expence only of a Bill in Chancery full of the Allegations of an ingenious Counsel.

The

The Objection being over-ruled, Mary Heath was sworn in Chief. Says, she came to this Kingdom from England in October, 1713, in the Station of Woman to my Lady Altham, and lived with her to the Day of her Death, and as near as Deponent can recollect, never was out of her Service one Day during that Time, except only one Week. Says, my Lord and Lady lived together three Years, and then parted; says, she never heard that my Lady had a Child during her Stay at Dunmain; and Deponent used to dress and undress her Ladyship and put her to Bed; so that she could not have a big Belly without Deponent's knowing it; that after my Lord and Lady separated, my Lady went to one Capt. Butler's in Ross; that she contrived to go as late as possible, that few People might see her, notwithstanding which, there was a great Crowd about the Place upon her coming, in order to gratify their Curiosity; believes it was of a Sunday she parted from my Lord, and she lived three or four Years in Ross, and after that Separation they never came together again. Being asked, who were the Servants when Deponent was there; says, there was Ralph the Butler, Anthony Dwyer my Lord's Gentleman, one Settright a House-keeper, Michael the Cook, and Juggy Landy, the Kitchen-maid under the Cook; says, that when my Lady came to Dunmain, Joan Landy was big with Child, of which some said my Lord was the Father, and others my Lord's Brother, and says, that several others were likewise mentioned for the same Purpose; says, Joan Landy staid in the Family about two or three Months, until she grew so big, that for Fear of her Crying out, she was obliged to quit the House, and go to her Father's, who had a little Cabbin on the Lands, where she was brought to Bed; says, that having a Curio-

sity to see the Child, Deponent spoke to the Coachman's Wife to bring the Child to the Gate for Deponent to see, and that accordingly Joan Landy brought the Child to the Gate, and Deponent looked at it, and it had A Blankets on; can't tell how old he was then, but believes about six Weeks or two Months. Being ask'd, why she desired the Child to be brought to the Gate, and not to the House; says, because my Lady would not suffer it to be brought to the B House, and Deponent had a great Desire to see who the Child was like; says, she gave the Mother some Cloaths for the Child. Says, she is sure there was no Child christened at Dunmain, while Deponent was there; has often heard my Lady C wish to have a Child; and on some Dispute between Lord Altham and his Brother, one Day at Dunmain, my Lady came up Stairs where Deponent was, and said, I wish I had a Son to be the Heir of the Family, were I to die the next Minute, if it was only to cut out that Brute Capt. Annesley, because he has been so unkind to wish I never may have a Child. Being ask'd, if she remembers the Occasion of the Separation; says, she does; that the Saturday before the Separation, my Lord said to his Lady, he intended to go next Day to dine abroad, and my Lady desired he would not; says, that Tom Palliser was frequently at my Lord's House at Dunmain, and nobody better regarded than he, in all Appearance, until the Sunday Morning, when Deponent heard a great Noise, and soon after met my Lord with a Sword in his Hand, who said to Deponent, Heath, I caught Tom Palliser in Bed with my Lady. That she told my Lord, she believes not; says, she heard that Mr. Palliser was very ill treated by my Lord and the Servants; and that same Day my Lady's Things were pack'd up, and a Chaise and four Horses were ordered

der'd to be got ready, and my Lady and Deponent went in it to Ross to one Capt. Butler's. Being ask'd, if there was any Child brought to my Lady to the Chaise at parting for her to take leave of ; says, there was not, nor was there any Child in the House. Being asked, if there ever was any Child brought to to my Lady to Capt. Butler's at Ross ; says, there was not. Being asked, if she knows *Joan Laffan* ; says, she does ; that *Joan Laffan* was in the Family three or four Months before my Lord and Lady parted, and used to help the Laundry-maid to wash. Being asked, if ever Deponent saw her dry-nurse any Child ; says, there was no Child there for her to dry-nurse, nor did Deponent ever see any Child in her Hands. Being asked, if my Lady heard of Lord Altham's Death ; says, she did ; that Deponent has a Letter which she received in London from Mrs. M'Mullin, giving an Account of my Lord's Death. Says, she told my Lady of my Lord's Death, and shewed her Ladyship the Letter. Being ask'd, what my Lady said upon the Reading of the Letter ; says, her Ladyship said nothing at all. Being ask'd, who my Lord Altham's Estate went to upon his Death ; says, it went to the late Earl of Anglesey, because my Lady had no Child ; and says, my Lady told her, That if she had had a Son or a Daughter, the Estate would have gone to the Child ; and that my Lady told her so both before and after she received the Account of my Lord's Death, which was in October, 1727. Being ask'd, if my Lady had any Support from my Lord ; says, no ; that she was supported by the Duke of Buckingham ; that my Lord Duke allowed her at first 60 or 80*l.* and afterwards 100*l.* a Year. Being asked, if she knows Mr. M'Kercher ; G says, she does ; that he came to Deponent's House in St. Andrew's Court, Holborn, April the 14th, 1742 ; that

he said he was a Stranger, and made an Apology for calling to see the Deponent, and then asked her some Questions about Lady Altham, and particularly whether she had a Child. He told Deponent, that Mr. Annesley was recommended to him by one Lieutenant Simpson, and that when he came to him he gave him ten Guineas, and took him into his House because he was destitute of Lodgings. He then shewed Deponent a List of Servants who lived with my Lord at Dunmain, and Deponent finding her own Name at the Top, said to him, *I think you have put me at the Head of the Mob.* Says, that Deponent saw in the List the Name of Martin the Smith, Charles Meagher, and Joan Laffan ; that thereupon Deponent asked him, what *Joan Laffan* could know of the Matter ; to which he answered, that she could prove the Christening of Mr. James Annesley (my Lord and Lady Altham's Son) by old Parson Lloyd ; that Deponent replied, she could know no such Thing, for that Deponent could take her Oath my Lady never had a Child, and never was so much as with Child, all the Time Deponent lived with her, which was many Years ; that thereupon Mr. M'Kercher said, he would turn Mr. Annesley out of Doors, and wash his Hands of him ; that he was as glad as if he had got a thousand Pounds to have seen Deponent, and that if Deponent was dead, Lord Anglesey would lose his Estate and Title, and that there would be bloody F Swearing if Deponent was dead. Says, she told him, that if there was such a Child, it would appear in the Register of the Parish where he was born ; but he said it was a Country Parish, where no Register had ever been kept ; but says Deponent, a Child of that Consequence would sure be register'd somewhere.

Mr. Harward, Counsel for the Plaintiff, objected to Mrs. Heath's Evidence,

dence, with Respect to Mr. M'Kercher's Declaration. That it was not proved he made those Declarations by Mr. Annesley's Order; and tho' it was admitted Mr. M'Kercher was now an Agent for him, yet the Opinion of an Agent was no Evidence against the Principal; which the Court admitted, and said, the Jury were not to take Notice of those Declarations as Evidence. Mr. Harward desired Leave to observe, That it appeared from Mrs. Heath's Account, that altho' Mr. M'Kercher had with great Humanity taken Mr. Annesley into his Protection, yet his Friendship did not binder him from acting in all this Affair with the Caution becoming a Man of Sense. And as she says, that upon the Account she gave him, he declared his Resolution to drop the Pursuit of Mr. Annesley's Pretensions; so the Presumption is, that he did not change that Resolution but upon good Grounds; and that it likewise appeared from Mrs. Heath's Evidence, to the Honour of Mr. M'Kercher, that he did not attempt by any corrupt Motives to persuade her either to give false Evidence, or suppress the Truth.

Mrs. Heath being asked, what Time of the Day they came to Rof's the Day of the Separation; says, she is sure it was at Night, and that they could not discern the Crowd. Being asked, if the Defendant ever came to Dunmain after the Quarrel he had there with my Lady; says, he never did. Being asked, if she ever saw one Mr. Hufsey at her Lodgings in London; says, she did see him there. Being asked, if she never told him she knew more of this Affair than any body, and that Mr. Annesley was greatly wronged; says, she never said any such Thing; but on the contrary told him, my Lady never had a Child. Being asked, when it was she first heard of Mr. Annesley's coming to the Kingdom; says, she heard it three Years ago next January, when the Duchess

of Buckingham sent to speak to her about it; and that it was the Duchess's Woman who first told her of it. Being asked, if Lady Altham was not a fickle Woman; says, she had a Palsey, which grew upon her A by Degrees, so that she could not stand, and that she became worse and worse after she went to London. Being asked, where that Disorder first seized her; says, it seized her first at Rof's. Being asked, if it was never reported that my Lady Altham was with Child while Deponent lived with her; says, there was no Report of her being with Child since Deponent came to live with her. Being asked, if my Lady's Disorder did impair her Senses; says, she never was impaired in her Senses, but continued to enjoy them till her Death; says, the Duchess of Buckingham allowed her 100l. a Year. Being ask'd, if Deponent is not a Washer-woman in London; says, she is not; that her Daughter and she take in Plain-work for their Support, and that Deponent has some little Income besides.

[To be continued.]

His MAJESTY's most gracious
SPEECH to both Houses of Parliament,
on Tuesday, April 3,
1744.

My Lords and Gentlemen,

THE Preparations which were so long carried on in France, to invade this Kingdom, in Favour of a Popish Pretender, have at last been followed with a Declaration of War by that Crown against me. The Duty, Affection, and Zeal, for me and my Family, which have been so fully and cordially expressed in the unanimous Resolutions of both Houses of Parliament, and in the loyal and seasonable Addresses of all my good Subjects, ought to have con-

convinced our Enemies, how ill-grounded any Hopes of Success were, with which they might have vainly flattered themselves in such an Attempt. To me it is the truest Satisfaction, and must be the greatest Security to my Government, that, just at the Time of entering into this War, I have had such solemn Assurances and Pledges of the Fidelity and good Affections of my People.

Whatever Colours may be endeavoured to be put on these injurious Proceedings of the Court of France, B I can appeal to the whole World for the Rectitude and Equity of my Conduct, always steadily directed to the Defence of the antient Allies of my Crown, conformably to Treaties, to the Preservation of the Balance and Liberties of Europe, and the C Maintenance of the Commerce and essential Interests of my Kingdoms, pursuant to the Advice of my Parliament, without invading the Rights of any other Power.

Under these Circumstances I have declared War, on my Part, against D the French King, and have made the proper Requisitions to my Allies, particularly the States General of the United Provinces, (whose firm Friendship I have so lately experienced) to join with me and perform their Engagements on this important Occasion.

Gentlemen of the House of Commons,

I take this Opportunity to thank you for the Readiness and Dispatch, with which you have already granted me such large Supplies, and that F on Terms so advantageous to the Publick, altho' we were then actually menaced with an Invasion. It would give me the utmost Concern to see our Expences encreased by this new Event; but if you shall find any Thing further necessary for G the Support of the Honour of my Crown, and your own Security, in the present Conjunction, I depend

on your wonted Zeal to provide for it.

My Lords and Gentlemen,

In so just a Cause, I rely on the Divine Protection, and on your vigorous and effectual Support and Assistance. Let the Enemies of our Peace, who have long aspired at the universal Monarchy of Europe, and envied the Liberty and flourishing Condition of my Kingdoms in particular, see, that Great Britain, in Conjunction with her Allies, is able to withstand and defeat their destructive Projects. I will do my Part. I have no Interest at Heart but yours; and in that common Interest let us all unite.

The Humble ADDRESS of the Right Honourable the Lords Spiritual and Temporal in Parliament assembled, presented on April 4, 1744.

Most gracious Sovereign.

WE your Majesty's most dutiful and loyal Subjects, the Lords Spiritual and Temporal in Parliament assembled, return your Majesty our humble Thanks for your most gracious Speech from the Throne.

As the Preparations lately made by the Court of France to invade this Kingdom, in Favour of a Popish abjured Pretender, raised in us the utmost Resentment and Abhorrence; so the Disappointment, which, through the good Providence of God, and your Majesty's Vigilance, that pernicious Design has met with, fills our Hearts with the truest Joy and Satisfaction.

A Proceeding so notoriously contrary to the Faith of many Treaties, could have been aggravated by nothing but the Declaration of War published by the French King against your Majesty: A Declaration containing Insinuations so injurious to your Majesty's Royal Dignity and to the Honour of the British Name and Nation, that the Indignation which we feel in ourselves, makes us not doubt, but it will have the same just Effect on the Minds of all your faithful Subjects.

Our Zeal for your Majesty, your Royal Family, and Government, our Ardour for the Service and Support of your Majesty and our Country, at the Expence of our Blood and Treasure, could not have been augmented by any Circumstances, but the Mea-

190 The COMMONS ADDRESS.

Measures now taken by *France*, unprovoked by any Thing, but your Majesty's Endeavours to defend the antient and natural Allies of your Crown, to preserve the Liberties of *Europe*, and to maintain the Commerce and essential Interests of your Kingdoms.

If *Great Britain* could be wanting to your Majesty in so just a Cause, it must be wanting to itself. You may therefore firmly rely on the utmost Efforts of your People, to make good the solemn Assurances, which they have so dutifully and so affectionately given you, and effectually to stand by and assist your Majesty in prosecuting the War against *France* with the greatest Vigour.

We acknowledge your Majesty's Goodness in acquainting us, that, upon this Event, you have made the proper Requisitions to your Allies, particularly to the States General of the United Provinces, between whom and this Nation the strictest Ties do happily subsist. We humbly beseech your Majesty to continue those Instances in the strongest Manner; not doubting but the same Friendship, which that great Protestant Republick has so lately shewn for this Kingdom, and their just Sense of our common Interest, and common Danger, will induce them to join with your Majesty, and to fulfil their Engagements on the present Occasion.

Your Majesty's gracious and paternal Declaration, that you have no Interest at Heart, but that of your Kingdoms, cannot fail to excite in all your Subjects the warmest Gratitude; and to cement that Confidence between King and People, which is so necessary in this Conjunction. Permit us, on our Part, to assure your Majesty, from the Bottom of our Hearts, that we look upon the Defence and Support of your Majesty, and of the Protestant Succession in your illustrious House, as the only Security, under God, of our Religion, Laws, and Liberties; and that in this national and glorious Cause, all true *Britons* and Protestants will zealously and steadfastly unite.

His MAJESTY's most Gracious ANSWER.

My Lords,

I Give you my Thanks for this Address, so full of that Duty and Zeal, which I have always experienced from you. The Unanimity with which it passed, adds greatly to the Satisfaction I receive from it. I rely upon you to make good your Assurances; and you may depend on my Endeavours to carry on this War in such a Manner as may be most for the Advantage of my Kingdoms,

The Humble ADDRESS of the House of Commons to the King.

Most gracious Sovereign,

A WE your Majesty's most dutiful and loyal Subjects, the Commons of *Great Britain*, in Parliament assembled, beg Leave to return your Majesty our most hearty Thanks for your Majesty's gracious Speech from the Throne; and to express our utmost Indignation and Resentment, that, after an Attempt, the most perfidious, to surprize your Majesty's Kingdoms by a sudden Invasion, in Favour B of the Pretender, the *French* King should publish a Declaration of War, couched in Terms, injurious to the Honour and Dignity of your Majesty's Crown, Person, and Government, and avowedly founded upon your Majesty's having supported, pursuant to your Engagements, an Ally, oppressed by the *French* King, contrary to his Faith, solemnly pledged, and dearly bought.

We congratulate your Majesty on the ready Assistance your Majesty has lately received from the States General.

We beg Leave also to return your Majesty our sincere Thanks, for having asserted the Honour of this Nation, in declaring War against the *French* King; and for having, on this important Occasion, been graciously pleased to make the proper Requisitions to your Majesty's Allies, and particularly to the States General, united in one common and invariable Interest with this Nation: And we cannot doubt, but that, by your Majesty's steadily pursuing the said Instances, they will, from their known Regard to Treaties, and their just Sense of the impending Danger, co-operate with your Majesty, in the most vigorous and effectual Measures, for checking the ambitious Views of *France*, and preserving the Liberties and Balance of Europe.

F Your faithful Commons do humbly assure your Majesty, that, in the Prosecution of this unavoidable War, whatever further Expences shall be found necessary for the Support of the Honour of your Majesty's Crown, and the Security of this Nation, your Majesty may depend upon their most ready and effectual Assistance; such as they think becomes a free and grateful People, in Defence of their Liberties, against that Power, which has long aspired at the universal Monarchy of *Europe*, and whose ambitious Views, and destructive Projects, have hitherto been defeated by the Blessing of God on the Arms of *Great Britain* and her Allies.

His

His MAJESTY's most Gracious
ANSWER.

Gentlemen,

I thank you for these repeated Assurances of your Zeal and Affection.

Your Unanimity on this Occasion, will, I make no doubt, have a very good Effect upon our Allies.

You may depend upon my Endeavours to make this War as little burdensome to my People as possible.

Westminster Journal, March 31. N° 123

Some THOUGHTS previous to the Consideration of the French WAR.

What tho' among ourselves, with too much beat, [bate ; We sometimes wrangle, when we should deserve a consequential ill which freedom draws ; A bad effect, but from a noble cause) We can with universal zeal advance, To curb the faintless arrogance of France.

PRIOR.

THE two most recent Causes, to which we may ascribe the present Enmity between France and us, are undoubtedly the Spanish War, and the Death and Succession D of the late Emperor.

The War with Spain was begun to procure Reparation for numberless Piracies, committed by Authority upon our Merchants, contrary to the Tenor of the most solemn Treaties ; and to settle, by the most explicit Stipulations, the Freedom of our Navigation upon a solid Basis, which the Chicanery of Officers or Governors should not be able to shake. We knew that for some Time it would cause a Suspension of one of the most valuable Branches of our Trade : But we presumed upon seeing that Trade revive, at a Peace, with new Splendor. To bring on that Peace, therefore, as soon as possible, was the great Object of the War, which consequently it was necessary to prosecute with all the Vigour in our Power.

France, at the first, look'd inactively on, well knowing, that if the Sense of the British Nation was followed in the Prosecution of the Spanish War, Matters would come to an Issue before she could effectually interfere : For the Fleets of France at that Time were in no better Condition than those of Spain. She did not chuse to make an Enemy of Great Britain, unless some fair Prospect offered of serving her Ally : But that no such Prospect might

pafs away unnoticed or unimproved, she began to put her Marine into Order, and watch'd narrowly every Motion of the British Admirals, both in Europe and America.

It soon appeared, that the Thunder of Great Britain was not like to be so sudden and violent as had been apprehended. That the *Affogues* Ships got home in Safety, ought perhaps not to be ascribed to any Fault, because we know who had the Charge to intercept them. But when the same gallant Commander began to act with Spirit in the West Indies, we soon perceived that his Conduct was not agreeable to those in Power. They could not indeed censure Actions which received the Sanction of both Houses of Parliament ; but they could prevent his doing any farther *Mischief* than what he had, at first, Forces to effect ; they could withhold the necessary Supplies, and waste the Strength which their Disapprobation was insufficient to controul. Accordingly the Fleet destined to reinforce him lay many Weeks in the Channel ready to sail, while the Spaniards in America had Time to provide for their own Security ; and the French at Brest, to the eternal Reproach of our Directors, got the Start of Sir Chaloner Ogle in the same Voyage.

We then expected every Week to hear the Fate of the brave *Vernon*, and the few gallant Officers and Sailors that remained with him. They did not endeavour to avoid it, but, as soon as they had Intelligence of *D'Antin's* Approach, failed out of Harbour to give him Reception. Providence, who much oftener than her Pilots hath taken Care of the British Vessel, immediately interposed, and by a Storm defeated the Project, which otherwise, perhaps, her little Force there might have been sacrificed in attempting to withstand. But, tho' the Event was not prosperous to our Enemies, it is manifest the Number of them was increased by our Negligence, and that the French took the Spaniards under their Protection for no other Reason, but because we were not at all in earnest to do them an Injury.

This, then, is one remarkable Instance wherein the French dared to insult us by Sea, under Pretence of making good their Engagements with Spain. Nobody, I believe, now doubts, but that if they had seen any Advantage, they would have taken it, to the Destruction of our Fleet ; and yet it does not appear that our Admirals had equal Orders, or that they could, upon the fairest Opportunity, have attack'd these Protectors, without straining a Point in their Commissions. Whether they would have done it or no, is another Question, which perhaps may be best answered by consider-

ing the known Character of the chief Commander.

For that such Orders were not given in *Europe*, even a considerable Time after, whatever they might be in *America*, was notoriously evident by what pass'd in the *Straits*. An Embarkation of Troops was intended and prepared for *Italy*, which not the whole naval Power of *Spain* was sufficient to cover, against the *British* Fleet, whose Busines should have been to intercept and destroy it. Hereupon our Friends the *French* appeared again in their protecting Capacity, and the intrepid *Haddock*, with Grief, saw himself obliged to let this Protection pass, notwithstanding it was both his own Opinion, and the Opinion of all the Captains with him, that he was more than able to cope with the united Squadrons. In this Piece of *British* Complaisance was laid the Foundation of that *Italian* War, which has already cost so much Blood and Treasure, and which we are now in Danger of seeing revived with double Fury.

But the Death of the Emperor had now happened: Several Claims had been set up to his Succession, either in the Whole or in Part: The King of *Prussia* had made good his, and was still in Arms against the Heires of *Austria*: The King of *Poland*, Elector of *Saxony*, was also asserting his Title, and augmenting his Troops; and the Elector of *Bavaria*, who put up for the Imperial Dignity, supported by a *French* Army, had penetrated into *Austria* itself, threatened the Capital, and published his Pretensions even to *Hungary*, a Kingdom independent of the *Austrian* Succession in *Germany*. While Things were in this Situation, our most gracious Sovereign, being then in his *German* Dominions, made Shew of preparing to assist his Ally, the distress'd Queen of *Hungary*, according to the Obligations of the Pragmatick Sanction, by which *France* was equally bound: But immediately a *French* Army poured down upon his Frontiers, threatening to overwhelm him with superior Force; and by this Means extorted from him a Convention of Neutrality by Land, and that Security by Sea for both *French* and *Spaniards*.

In this Event we see a Mixture of Interests. The Honour of *England* seemed to suffer, and her Advantage to be neglected, because of the Danger of *Hanover*. The same Danger, we have Reason to think, caused the Election of an Emperor to be unanimous, and was the Reason that the Queen of *Hungary* remained long unassisted, against a most powerful Alliance, headed, animated, and paid by *France*.

Now what were the Consequences of all this? The protracting of our own War with *Spain*, which one decisive Engage-

ment, against the Bulk of her naval Power, might have brought to a Period: The missing an Opportunity to crush the same Power in *France*, when it was but beginning to revive, which may be now employ'd very much to our Detriment: The Expence of keeping a vast Fleet, above two Years, to block up the Squadrons we A might have destroy'd, and prevent the sending any Reinforcement to the Army we had permitted to pass into *Italy*: The hazarding of that Fleet in an Engagement, after it had been thus two Years growing foul, and running to Decay, at a vast Distance from Home, while the combin'd Squadrons were riding safe in a *French* Harbour, where they had all Opportunities to clean, refit, double-man, and store with a Superabundance of Provisions and Ammunitions: In a Word, the involving us necessarily in a *French* War, which we seemed so industriously to avoid, and which, by its becoming general, and upon Land, may be carried to a great, expensive, and bloody Length, instead of being brought to a short Issue between the Fleets of the two Nations.

I advance this upon a Maxim, which I think every Way supportable, viz. That a War between *England* and *France*, when the Quarrel is *English* only, should be carried on entirely by Sea, especially in *Europe*; as well as the War has been between *England* and *Spain*, and as Wars formerly were between *England* and *Holland*. The Reasons are perfectly the same: The Nations have no Lands confining upon each other; we don't want to make Conquests in *France*; nor could the *French* make any here, with the least Probability of holding them, unless, what we have little Reason to fear, they could conquer the whole Island. In *America*, indeed, the Case is otherwise; the rival and neighbouring Settlements, there, being sufficient Baits to Avarice and Ambition.

Westminster Journal, April 7. and 21.

How a French WAR should be conducted.

WHAT I said in my last is not in the least to discourage or frighten at the present Crisis. I have only been shewing what Advantages we have neglected to take, what Mistakes we have run into, and how these, by giving the *French* contemptible Notions of our present Politicks and Resolutions, have precipitated them into this Measure of declaring against us. Perhaps this Measure may be a more capital Blunder than any I have yet mention'd; but that Time alone can demonstrate.

Tho'

Tho' we cannot in our present Circumstances make the War wholly naval, we should make it as much so as possible. Our Alliances with the Queen of Hungary, and perhaps with the Dutch, if they act as may be expected in this Crisis, may make it necessary for us to have Troops on the Continent: But if we furnish to those Allies, or to other Princes that may join the Alliance, either upon Principle or for Profit, such Sums as may enable them to make good the Deficiencies, our own Contingent need not be large; no larger than to give us Rank and Influence in the Confederate Army, where the Dignity of the British Crown, and the great Share we bear of the Burden, may perhaps entitle us to Command.

The last great War, with all the Success that attended it, under the immortal Duke of Marlborough, may be justly said to have been ill-conducted in this Respect, that too little Attention was paid in it to our natural Strength. While we were gathering Lawrels in Germany and Flanders for the Austrians and the Dutch, such Conquests as could alone be of Benefit to us, and which our Fleets alone were sufficient to make, seem to have been almost entirely neglected: Otherwise the French Sugar Colonies had not at this Day made such a Figure, upon the Ruin of ours, because all the Caribbee Islands had been English: Otherwise our Provinces in North America had been secure, and the Indian Nations, upon the Back of them, all our own; because we had either made ourselves Masters of St. Lawrence's River, and all upon it, or had not consented to a Peace till it was surrendered.

Some, I know, take upon them to argue against all American Expeditions, from the ill Success that attended those against Cartagena and La Guaira: But do we not know, that the former was attempted out of Season, and the latter defeated by being betray'd, so that the Enemy had Time to provide against it? Neither of these Cases, we would hope, may again happen.

The Objection of the Unhealthfulness of the Climate does not exist against that Part of my Scheme, which regards the Continent of North America. Every one knows, that the Countries I speak of are of a Temperature little differing from ours, and exceedingly agreeable to a British Constitution. And as to the French Sugar Islands, tho' they are in a warm Latitude, we know that Thousands of English endure the same; and we may suppose a wide Difference between attacking a Fortress, such as Cartagena, strong by Nature and Art, and making a Descent upon Martinique,

A It is not so much the Acquisition to ourselves, as the Loss to the Enemy, that would be the good Effect of any Conquest we could make in those Parts. If we had all the Sugar Colonies, the French would have none: Which would destroy the greatest Branch of their Navigation, and must, in Time, wear out their Breed of Sailors, and render most of their Ships in the Ocean useless.

B A Man may venture to be so far a Prophet as to pronounce, that if we are negligent in this Respect, the French will not be so; and that therefore the most effectual, and indeed the only certain Way to preserve what we have, is to endeavour to get what we have not of the Islands in Question; that an Enemy, whom in Time of Peace we always found to be intruding, and who has now a Right to be to the utmost of his Power usurping, may be removed, as far as possible, out of our Borders.

C Here is old Marshal Schomberg's Argument, which a French Refugee told me he heard him use to his Countrymen at the Battle of the Boyne, a little before he fell; *Mes Enfans, voila vos Enemis; si vous ne les tuerez point, ils vous tueront. My Boys, there are your Enemies; if you don't kill them, they'll kill you.*

D The same Reason, if there were no other, should make us act upon the same Principles in North America, where, indeed, we do not seem to want Extent of Territory, but Security: And how precarious and expensive this has been frequently made by the French Arts, tampering with the Natives, and influencing them to rise upon our Planters, need not be here repeated. We have already had one of these Proofs of their bad Neighbourhood, tho' but upon the Approach of a War, in the Insurrections they have caused among the Nations upon the West of Carolina: And if we look into the Maps, and observe how we are surrounded by the vast Countries which they claim, under the Names of Canada and Louisiana, and which they want only to people in order to make a Push for the Sea Coasts, the Importance of this Doctrine will be most evident.

E Tho' it be not absolutely to the Purpose of a French War, yet as we ought to remember we are still at War with the Spaniards likewise, I must observe, that St. Augustine, in Florida, still remains a formidable Check upon our Southern Colonies, that favourite one especially of Georgia, G which can never flourish, according to the original Idea of the Planters, till that Barrier falls into our Hands. The Bravery of the Spaniards in defending it shew'd of what Importance they thought it, and the Invasion

Invasion they afterwards attempted justified their Opinion. General Ogletborpe's Repulse should only animate us to undertake the same Thing with a greater Force, and better Harmony of Councils, the Want of which has been so fatal to most of our Expeditions.

In Europe, the greatest Mischief we can do the French, is by interrupting and ruining their Commerce. This was far from being so considerable in the last War as it is at present; and therefore what was then done in this Respect, or even what might have been done, had the Ministry made this a chief Point of their Concern, ought to be no Standard for what we are now to expect. In every Particular that we can destroy or reduce their foreign Trade, now their home Resources are continually drained almost to the utmost, we weaken our Enemy in Proportion to the Revenue of that Branch, which they have no other Means of supplying.

Tho' France has now an extensive foreign Trade, Britain's, Heaven be praised! is considerably greater: Consequently Brita'n is much her Superior in Number of Sailors and Shipping, the two chief Articles that entitle to a Dominion over the Seas. What then hinders but we may avail ourselves of this Superiority, if we are but attentive to our own Interests?

Another Point that should be laboured at in the Conduct of a French War, is a total and perpetual Prohibition of all French Commodities. These are either the natural Produce of France, or her Manufactures. We have no Need of either, nor can either be continued without manifest Disadvantage to ourselves. This has been a long Time experienced and loudly said; but Luxury, Fashion, or Indolence in those who had Power, always rendered ineffectual the most just Reasoning, and most sensible Example. A Time of War is however a Season when common Sense may hope to prevail against a natural Enemy, whom it becomes criminal to countenance or encourage. The French supply nothing for our Necessities; and it is hard indeed, in a Time of War, if our Luxury, when it may be equally gratified, cannot submit in the single Article of using our own Commodities, rather than those of our Enemies.

There is a Necessity of discontinuing all Commerce with France, not only immediately, but thro' any Channel whatsoever? If we have French Goods run in upon us, or brought in openly from other Countries, while we know that France takes nothing of ours that we are desirous of sparing, it will be equally mischievous as if we continued a Correspondence with France itself:

Our Money will be drained off for what we do not want, and our Enemies will get Money for what they cannot expend.

Methinks, if Shame could be made a little to operate, in the present Case, upon the Minds of my Countrymen and Women, it might do infinite Service: And the only Way to effect this, is to make it A infamous as well as criminal, to take any Step that might countenance or enrich our Enemies. I will not pretend to point out the Method of inducing and fixing this Infamy, and will only say in general, that if a few prime English Spirits, of the first Reputation, would distinguish it in others, by avoiding the Cause in their own Example, it would go a great Way in my Design.

For Instance: Would it not be in the Power of a Nobleman of the highest Distinction, who, perhaps, out of 20 Domesticks, had hitherto kept 16 French, by discharging all these, and owning the Error and Folly of his former Conduct; would it not, I say, be in his Power to influence C many of lower Fortune and Rank to do the like, and so to clear the Land of those lazy Caterpillars, who have no Merit but in the ill Judgment of their Masters? Might not a few noble Companions, of the highest Repute for Taste, bring French Wine into Discredit, by decrying it in all Companies, and calling for nothing but the more generous Growth of Portugal or Italy? If a Row of Ladies should frequent the Side Boxes dressed in nothing but the Linen of Scotland or Ireland, or at most with a little Addition of India Muslin, and with no finer Laces on their Heads than the Fabrick of Buckinghamshire, would not Cambricks and Brussels soon grow into Disrepute, and the other appear sufficiently E beautiful? If Brussels be not French, neither is it English; and, besides that we have much French Manufactures brought in under other Names, we ought not, in Point of Trade, to let any Consideration outweigh our own Interest.

The Running of British and Irish Wool to France, whereby the French are enabled to make Cloths of a tolerable Texture, and, by their greater Vicinity to many Markets, undersel us, is another Grievance that should, at this Time, be put an effectual Stop to. The Nature of the Clothing Trade, and the Advantages France has gained over us by her late Improvements in it, none of which could have been made, nor can be continued, without our Wool, have been so fully explained on many recent Occasions, that I shall not enter into them here: But this appears upon the whole, that no Effort we can make, no Severity we can practise, to G keep

keep the Golden Fleece, and the Earth by which it is fulled, to ourselves, is too great for so important an Affair. I would not, therefore, think a Runner of Wool, or Fullers Earth less criminal, than a Thief who should rob the Treasury.

Could we cramp the *French* in this Manufacture, besides the immediate Damage it must do them, it would infinitely increase our own Commerce, especially to the *Levant*, a Trade that is now like to be laid open: And to encrease our own Commerce and lessen theirs, is in the same Proportion to augment and diminish the naval Power of the respective Nations.

Should it be thought odd that I have not yet mentioned *Dunkirk*, I would inform those who make the Observation, that it is not because I think it of less Importance now than I thought it last Summer, but because this Truth is so evident, There can be no good and secure Peace with *France* without the Possession of that City and Port, as not to need any Manner of Proof. There is nothing else properly and distinctly beneficial to *Great Britain*, for which we can fight on the Continent; and therefore, whether our Arms are successful there or no, we ought never to slacken the Vigour of our natural Strength, our Fleet, till we obtain this Condition among many others that are necessary.

Upon the Whole, the great Points wanted for ourselves from the present War, are the Security and Extension of our Trade, and the absolute and acknowledg'd Dominion of the *Narrow Seas*; and for our Neighbours and Allies we want equal Security by Land, and Ease from those Apprehensions which are ever too well ground-ed upon the *French* Projects. The Dominion they seek must draw after it the Slavery of the rest of Mankind, whereas ours can only keep open and free the Intercourse between Nations: To this we have a Right by our Situation, our Disjunction from all other Territories; but to that they have no Pretence but their Ambition, and a too great Share of ill-acquired Power.

That Power it is our Interest to see broken: It is our Business, with the Assistance of the *Dutch*, to break it by Sea; and by Land, to contribute all we can to that Purpose, without debilitating or obstructing our natural Strength. If an Opportunity did lately present of effecting our own Part by one Blow, and that Opportunity was neglected, we can never too much abominate the Treason; but let us remember, that an Opportunity may recur, if the *French* still pretend to lord it on the Sea, and if it does, let us see that it be better improved.

Craftsman, April 14. No 929.

The UNIVERSAL BALANCE.

SIR,

I Beg Leave to convey, thro' the Channel of your Paper, an Account of a Machine I have lately invented, which I call the *Universal Balance*, and which, I doubt not, will be as useful in political Philosophy, as the *common Balance* is in mechanical and natural Philosophy.

The *common Balance* takes only the *absolute Gravity* of a Person; but this takes the Weight of his *Talents*, his *Merit*, his *Virtues*, and his *Vices*. And, to shew the very great Use that may be made of it, I shall give you a Course of Experiments, which I have very lately had an Opportunity of making.

I weighed all the Advantages we had got by the present War with *Spain*; and I found them just as considerable, as the Measures taken were wise and vigorous.

C Then I weighed the Advantages we were likely to gain by a Land War, and found them negative to a very great Degree. I weighed the Affair of *Cartagena*; but every Thing was so complicated, that I could make very little of it: The *Admiral's Breeches* weigh'd very heavy. I weigh'd 16,000 *H—ns* againg 3000 *English*; the Balance was even. Then I weighed their Pay, and, to my great Surprise, found the *H—n* double. Most of the Officers weigh'd rather heavier than they should do. I weigh'd the Promises against the Services of our Allies the *Dutch*, and found no Sort of Comparison between the former and the latter. Upon weighing the *Dutch*, I could come to no Certainty for a great while, till, at last, I put into the opposite Scale a Weight which I call *Prevarication*, upon which the Balance was exactly even; then I put into the same Scale another Weight call'd *Honesty*, upon which the *Dutch*, as I thought they would, kick'd the Beam; but, upon adding *Self-Interest* to the *Dutch* Scale, up went *Honesty* higher than Air itself.

F Into one Scale I put *England*, into the other all the Powers of *Europe*, upon which I found that *England* rather over-balanced. This Experiment pleased me much; then I put *Ireland* into the *English* Scale, expecting to find a very great additional Weight; but I was deceived, for, I think, if there was any Difference, the *English* Scale was rather lighter than before; upon which I added a whole *El—te* of the *Empire*, and, to my great Surprise, found that the *English* Scale lost incredibly by the Addition. Then I weigh'd the Faith of Nations

tions in regard to Treaties, and all the Treaties that have been made for these last forty Years, especially those of our late Minister; the Quantity of them was so great, that I doubted, at first, whether or not I should be able to get Weights enough for the Experiment; but this Doubt was soon over, for I presently found that I should be troubled to get a Weight light enough, till, at last, I chanced upon a Bundle of Rushes, which I put into the Scale, but the whole Bundle was too heavy; so I put a single one in, but that was too heavy; till, at last, I split the Rush in two, and then the Balance was exactly even. Just before the Death of that worthy old Gentleman Bishop Hough, I had an Opportunity of weighing all the *B—ps*. Into the opposite Scale I put *Translations, Commendams, Options, Procurations, &c.* In the Course of the Experiment I observed something very odd; the Scale play'd up and down, as if somebody had been moving it with their Hands. At first I wonder'd at it, but upon surveying the Scale, in which were the *Bishops*, I saw old Hough stepping in and out, as I thought, for his Diversion; upon which I walked up to him, made him a very reverend Bow, and told him, that his Merit was so well known to all the World, that it was Matter of no Curiosity to weigh him, and therefore I desired he would be pleased to step out of the Scale. He comply'd with my Request, and suddenly stumbled out; upon which up flew the Scale of *B—ps*. After this, I put into one of my Scales four *Justices of the Peace*, two of which were of the *Quorum*; into the other, sixteen jolly Parochial *Priests*, which did not weigh up the *Justices*; then I added 240 Volumes of their Sermons; they did not do; then one of *Barrow's Sermons*, which increased the Weight prodigiously, and by the Addition of one *Country Curate*, the Scales were so near to an *Equilibrium*, that a *Bottle* and a *Pipe of Tobacco* turned either which Way you pleased. Then I put into one of my Scales 25 *Petits Maitres*, collected from the Stage and Boxes in *Drury-Lane Play-House*; 9 of them had been great Travellers, and had slept in a Post-Chaise over most Part of *Europe*, the other 16 had been bred up under their Mothers; but the Experiment had like to have proved fatal to them all; for I having just taken a Pinch of *Rape Snuff*, unluckily sneezed into the opposite Scale, which gave them such an unexpected Toss, that they all came tumbling from the Ceiling down to the Floor, and such a Medley was there of *Sighs and soft barmorous Groans*, such a Confusion of *Tou-tes, Black-Bays, Ramillies, Majors, Spah-*

cers, Night-Caps, Hats and Feathers, Muff, Picktooth-Cases, Tweezers, Snuff-Boxes, Patch-Boxes, Pill-Boxes, Lavender-Bottles, &c. that Chaos was a Fool to it. Then I proceeded to make some Experiments upon the *S—tors*. I weighed all the *Ay and No Men* together; their Weight was, as to the Number of *Pounds*, uncertain, *Grains three*, (of *Sense*, as I took it) a vast Number of *Pennyweights*, but no *Scrapes* at all. Then I weigh'd the *Patriots*, particularly a *tall thin Man*, that you would not think weigh'd an *Ounce*; then one who is remarkable for speaking *well*; another *beneftly*; another whose distinguished Abilities are *not blessed with the best of Constitutions*; and I found, as soon as ever they got into the Scale, they fixed it down as firm as a Rock, so that all the Weights in the World were not sufficient to move them. Then I put into one of my Scales all those Creatures that had been *blown up like Bladders* with the Breath of *popular Applause*; some new *L—ds of the A——y*, and a *C-mm-f-s—n-r* or two; into the other I put a *certain truly honourable Person*, that always stood firm to his *Principles*, and whose *Merit* alone has lately raised him to the highest and most profitable Employments, which, to his everlasting Glory be it said, he fills, tho' *envy'd, uncensur'd*; down went the conscious Scale, and had there been a Million more such Creatures in the opposite Scale, he would have overbalanced them all; nay, I weigh'd him against those very *Patriots* I mentioned, and I found the Balance even; from whence I concluded, that not *Party* but *Merit* was the Standard both of *publick and private Virtue*. I waited one Morning on the *L—d M—r* and *C—t of A——n*, to desire the Favour of weighing them. One of the most bulky of them told me, that it was not worth my while, that he knew they weigh'd, one with another, about 20 Stone a Man, and, moreover, they did not care to be weigh'd in a Morning fasting, and that I must stay till after Dinner. I stay'd, and had the Pleasure of weighing them, and found, in general, that a *Flea* weigh'd about twelve Times as much as their *Brains*. Then I weigh'd in my Balance 999 *Women*, and they were all found *wanting*; except one, and her I found dead in the Scale. Then I weigh'd *this Paper* against *myself*, and the Balance was even; then I weigh'd *myself*, and found, to my Sorrow, that I weighed just nothing at all.

Yours, &c.

From Old England, April 7. N° 62.

Some THOUGHTS on PEACE and WAR

A Certain *Virtuoso* in *Mechanicks*, hath, in these Times of Discord and Danger

ger, as seasonably, as accurately, and ingeniously, restored the *Military Machines* of the *Antients*: Would to God that those who are eminent for their Birth, Power, and Abilities, would take the Hint to revive their *Virtues*! The first is, indeed, a Matter of Curiosity, but the last of Necessity. For how many Years together have Purity of Heart and Greatness of Mind been out of Fashion? For how many Years together have Corruption and Servility been openly cherished, honour'd, and rewarded? How long has the best *Sponge* been held the ablest Minister? How long have *Ways and Means* been the sole End of Government? How long has the Fordid Consideration of Wealth out-weigh'd both Guilt and Reproach? How long has the false Glitter of Office, Form, and Title, been made Use of to dazzle the publick Eye, where the native Splendor of Honour and publick Spirit were wanting? And how long has Life itself been devoted to Follies, Luxuries, Vanities, and Vices?

The Time of Peace is the Calm of a State; and, while it lasts, the Air of a Court is apt to stagnate first, and then to putrefy: Contagion follows; and the tainted Vapour, by Degrees, thickens, and spreads over a whole Nation.

War, on the other Hand, is a Tempest that lays waste as well as purifies; and we mourn the Ruin before we can feel the Benefit. The destroying Angel has, indeed, the Features of Beauty, as well as the Brow of Terror: The Drum rouses, the Trumpet enlivens, the Pomp allures: Our Eyes sparkle, our Hearts glow; and, in our first Transports, we think Toils, Dangers, and Death itself, when accompany'd with Glory, a noble Equivalent for Ease and Safety. But when we awake, (for this gaudy Assemblage of bewitching Ideas, is little better than an artificial Dream) instead of playing the Poet with our Imaginations, we condescend, with the Politician, to make Use of our Senses, and to draw our Conclusions from Matters of Fact.

From the Down of Peace, from the Arms of Security, from the careful Pursuit of Wealth, or the licentious Pursuit of Pleasure, from a Persuasion that we were the peculiar Care of Providence, that the Miseries of War could never reach us, and that all our Enjoyments were Perpetuities, we are called upon to entertain very different Thoughts, to prepare for very different Scenes, to expect very different Events.

A War with *France* was ever an Affair of mighty Moment to this Nation; but never more so than at present: When that under K. *William* broke out, we were not only rich and flourishing, but out of Debt:

When the second, under Q. *Anne*, took place, we were still in tolerable Circumstances; and had, besides, the Advantage of being at the Head of a very great and formidable Confederacy. Under both those Princes, our Credit was even higher than our Power; and we certainly made large Acquisitions of Glory, if of nothing else. Whereas, at present, we subsist, in a Manner, on the Remembrance of that Glory; our Credit has been sinking under Fordid, corrupt, and odious Administrations; our Debts, after 30 Years Peace, are rather increased than diminish'd; our Taxes are heavier, and more insupportable than ever.

B The War with *Spain* was certainly a national War: Both the Interest and Honour of *Great Britain* were deeply concern'd in it: The People called for it, and the People cheerfully supported it.—But this other is purely m——l, and might have been prevented, if those at the Helm would have either made use of their own Eyes, to see the Rocks and Shelves they were surrounded with, or taken Warning from the Observations and Cautions of others.

C We have now, before our Eyes, the Man, who, in the Plentitude of his Power, made it his principal Study to reduce the exorbitant Power of the House of *Austria*; who cultivated the closest Union with the House of *Bourbon*; who conniv'd at the repairing *Dunkirk*; who was so instrumental in bestowing Kingdoms on that very *Don Carlos*, he had just set forth in the dreadful Colours of an universal Monarch, &c. We have this Man before our Eyes, not only unpunished and uncensured, but covered with Honours, and laden with the Spoils of the C——n——lth.

E Let the evil Counsellor be removed from before the King, and his Throne shall be established in Righteousness.

If pacify'd at home, we might still defy all Danger from abroad. Old *England*, however fallen from its antient Greatness, would still be able to preserve itself; and, in its own Cause, must ever be invincible.

F Possibly, even the Balance of Power (which is the sole Pretence for our embroiling ourselves with the Continent) might yet be restored; if we could be prevailed upon to use the proper Means. Every Body knows that *Prussia* abounds with Men, and *Portugal* with Money: The last we assist'd, not long since, to all Appearance, gratis: And the first we can yet induce, if we please, to become our fast Friend and Confederate for ever. Let us resolve to make the one, what the House of *Austria* was; the Bulwark of Europe against *France*: And let us call upon the other to discharge its Obligation.

CHARLOTTE and KITTY CRADOCK.

SHOULD fortune this way
The dear charmers convey,
Let this speak how their absence I grieve ;
None but that lovely pair
Could create half such care,
None but they too that care can relieve.
My ambition nor blame
If at both I should aim,
Since with various charms they delight ;
Sprightly *Kitty* should sway
The conversable day ;
Lovely *Charlotte* should govern the night.

Si fortuna perbellas
Huc ducat puellas,
Hoc nostrum testetur amorem ;
Quod hæc folæ duras
Tot excitent curas,
Hæc lenient folæ dolorem.
Nec causa sit iræ
Me duas ambire ;
(Variè fastinat) Catharina,
Te diem sinceram
Sermonibus feram ;
Sit noctis Charlotta regina !

Poole,

An ODE on SOLITUDE.

Andanto.

The musical score consists of four staves of music. The first staff starts with a treble clef, a key signature of B-flat major (two flats), and a common time signature. It features a series of eighth and sixteenth note patterns. The second staff begins with a bass clef, a key signature of D major (one sharp), and a common time signature. It includes a section with a 6/8 time signature. The third staff starts with a bass clef, a key signature of B-flat major, and a common time signature. The fourth staff continues with a bass clef, a key signature of B-flat major, and a common time signature.

Happy the man, whose wish and care a few paternal acres
bound; content to breathe his native air, in his own ground.

2.
Whose herds with milk, whose fields with
bread,
Whose flocks supply him with attire,
Whose trees in summer yield him shade,
In winter fire.

3.
Elest, who can unconcern'dly find
Hours, days, and years, slide soft away,
In health of body, peace of mind,
Quiet by day.

4.
Sound sleep by night, study and ease
Together mixt, sweet recreation,
And innocence, which most does please
With meditation.

5.
Thus let me live, unseen, unknown,
Thus unlamented let me die,
Steal from the world, and not a stome
Tell where I lie.

SIR,

Herefordshire, March 30, 1744.

AS I live in the Country, and can know
I waited with Impatience for an authentick
Account of the late *Toulon Engagement* ;
and was not a little disappointed to find
our Victory was not more compleat.
However, it was no small Comfort to
me to hear, that Admiral *Mattews*, for
whom I have the greatest Regard, was in

no Degree blameable on this Occasion :
Who was, I will not presume to determine.
Much indeed may be imputed to
the Wind, which, it must be own'd, has
been for two or three Years last past ex-
tremely variable. If the Nation is injured,
now or never national Justice must be
exacted ; since, if the combin'd Fleets had
been destroyed, the *French* durst not have
declared War, and *Spain* must of Course
have given us an advantageous Peace. I
shall

shall only at present remark, that the political Maxims advanced in many of our Pamphlets for several Years last past, in the Behalf of Corruption, are at least not infallible; since it is now evident, that, if in any decisive Action by Sea or Land, it should ever be possible that the Leaders should be corrupted, this Nation might, in all Probability, at one Stroke be utterly undone: And indeed, however others may entertain themselves, we in this Part of the World are even more than serious, being truly concerned for the Loss of a valuable Countryman, who hath, with at least as much Bravery as any of the Greeks or Romans, sacrificed his Life in the Service of his Country. To his glorious Memory are the following Lines inscribed.

To the MEMORY of the brave Captain CORNWALL.

WHILE in his country's cause brave Cornwall fights,
And gloriously asserts Britannia's rights,
A ball, as fearless he on deck presides,
Fies,—from his body swift his legs divides:
Ev'n then not fear, you'd scarce think pain,
he knew,
But still directs and bears the gen'rous crew.
Help! help! these cry; with groans the deck resounds;
Each feels beyond his own his leader's wounds;
Who thus (for nought but Britain's fame)
afraid) [dismay'd]
Friends, be not at these trifling wounds
Your country, not your captain, wants
your aid.
The honest tars his hand sincerely press'd,
And cry'd, 'Oh bear him off, and see him dress'd.'
Me off? he cries; not while I've left
a band
To point, a voice or soul to give command.
Let Frenchmen quit their friends, let cowards start;
I've only lost my limbs yet, not my heart.
Shot thro' the heart at length, in England's cause
He fell, while each true Briton's beats apart.
Let Thebas her hero boast, who tore the dart,
But ne'er his country's int'rest, from his
Let Rome found Scævola's immortal fame,
His band consum'd, his gen'rous heart
the same, [flame;
Midst tortures calm, and brighter from the
How in their country's cause, their country's pride,
The Decii, Fabii, and Horatii dy'd;
For her dear sake, in earliest bloom, how well
The noble Curtius, glorious victim! fell;

* Epaminondas.

Into the chasm th' undaunted hero flies,
While unaffected pleasure fills his eyes; }
What should disturb his soul who for his
country dies?

Stamp'd on Britannia's breast, a Cornwall's name

Shall emulate the Greek and Roman fame:
One Briton's death did love sincere display
For her, whom others live but to betray.

HOR. B. III. ODE 16. Imitated.

P A L E meagre cheeks, and wrinkled brow,
Lank locks with age grown grey,
Bear eyes from whence rich juices flow,
And nose as moist as they;
Black teeth, grey lips, and picked chin,
A curious crooked waist,
With palsied nerves, and shriv'led skin,
Had kept Prudera chaste:
If Cupid had not feeble grown,
And gold been greater found;
If teague Mac Face had never known
She had ten thousand pound.
Gold penetrates the palaces
And bosoms of the great;
It teaches men strange fallacies,
And ev'ry mean deceit.
A sacrifice to cursed gold
Great Montezuma fell;
To Lewis, towns for wealth were sold,
And last he purchas'd hell:
Yet gold increasing, makes our cares
And thirst of more increase;
It multiplies our hopes and fears,
And banishes our peace.
How happy they who shun the great,
And nobly dare be poor!
Who from the busy world retreat,
Their virtue all their store:
Richer than he whose conqu'ring sword
Has made whole nations bleed;
Th' ambition of the Persian lord
Is poverty indeed:
I envy not the tyrant's power,
And wide extended sway;
How does a guilty conscience sour
Those triumphs of a day!
Hear me, ye guardians of my fate!
And grant that I may find
The blessings of an humble state,
And a contented mind.

To C — n B — ll, upon his late glorious Success over the Highlanders at the Battle of the Wood, 1743. (See Mag. for 1743. p. 290, &c.)

— Hanc sine tempora circum
Inter vicitrices bederam tibi serpere lauros.

S HALL D — y's messengers of fame,
Thro' neighbouring counties hawk your
name;

For two-pence cry thro' every town
Accounts of c——n B——l's renown;
In blund'ring prose assume to praise,
The merit only verse can raise?
No! whilst the world agrees to shed
Fresh honours round your laurel'd head;
Permit the poet in his lays
Amongst your wreaths to mix his bays;
Laurel that round your temples twine
Shall fix eternal bays on mine.
Immortal is the poet's name,
Whose numbers sing the c——n's fame;
But to amuse the gaping throng,
Shall vile profaners of the song,
In tuneless, and in senseless lays,
Fit, very fit for market-days,
Uplift above the ignoble crowd,
On tripod rais'd, proclaim aloud,
And wond'ring louts around 'em call
To hear the deeds of c——n B——l?

Shall every mouth, shall every pen,
The farmers wiyes, their maids, their men,
Boys, girls, of every town extol,
Ye sons of Mars! above ye all
The glorious name of c——n B——l?
And shall not I my tribute pay,
And 'midst the shouts give one huzza?
I will—huzza then one and all;
Huzza for ever—c——n B——l.

Who quell'd our rebel northern foes,
And stifled faction e'er it rose?
Who stopt a Scotchman running home,
From greater mischiefs still to come?
Who singly all our foes withstood,
Explor'd the mazes of the wood,
To save his own, and others blood?
Who? but the hero of 'em all,
That doughty hero c——n B——l.

He with his all-prevailing word,
Victorious as his conquering sword,
Stept from amidst the chosen few,
Our Ajax and Ulysses too.
His sword so oft in battle try'd,
Hung idle dangling by his side.
His generous soul disdain'd to have
That blood his eloquence could save.
His fatal arms he knew must thin 'em,
But chose a safer way to wit 'em;
With gracious speech address'd 'em all,
That soothing tongue of c——n B——l!

Soon as the learned hero spoke,
Forth from his lips such language broke,
That faction fast asleep was laid,
And bold rebellion hid her head;
Each Savoy lent two itching ears,
One fill'd with hopes and one with fears.
His wisdom claim'd such due regard,
That Scots grew loyal, as they heard.

Unnerv'd at length their weapons fall,
Prevailing tongue of c——n B——l!

Ye sons of Churchill, Marlborough's name,
E're while the favourite word of fame,

Now all your wonted glories yield,
Reapt erst in many a well fought field;
Lay all your wither'd laurels down,
For now they only bloom on one;
That one will greatly claim them all,
And who that one but c——n B——l?
Eugene and Cæsar heard no more,
Peace to the dead—their fame is o'er.
Prince Charles, or Stairs, must cease to
claim
One page within the book of fame.
These living heroes too must fall,
Lost in the general shout of all,
Long live our sole defender c——n
B——l.

On the DEATH of CYNTHIA.

THO' Cynthia's fate now caus'd my
grief to flow, [woe.
Yet Cynthia's fate shall stop my future
I'll court no more those joys, the fair im-
part, [heart.
Nor please my wav'ring head, to sting my
One truth I've learnt, and sure this truth is
plain:
To give us joy, is but to promise pain.

*An EXTEMPORARY THOUGHT on the sud-
den Death of an ingenious and virtuous
young Gentleman.*

*Stat sua cuique dies, breve & irreparabile
tempus*
Omnibus est vita, sed famam extendere facit
Hoc virtutis opus. ————— Virgil.

SWIFT as the light'ning darts along the
skies,
So the freed spirit from the body flies:
Descending angels spread their guardian
wings
Round the dear charge, and as she soars
she sings.
How the globe lessens, as she wings her
way,
Beyond this minute of revolving day,
To those blest seats, which never will
decay!

PHILELEUTHERUS.

*Hearing Mr. HANDEL's SAMPSON, at
the Theatre in Covent-Garden.*

R A I S'D by his subject, Milton nobly
flew,
And all Parnassus open'd to our view:
By Milton fir'd, brave Handel strikes our ear,
And every power of harmony we hear.
When two such mighty artists blend
their fire; [inspire,
Pour forth each charm that genius can
The man whose bosom does not raptures
feel,
Must have no soul, or all his heart be steel.

On viewing Mr. HANDEL'S STATUE.

THE stones obey'd when sweet *Amphion*
sung,
And to his soft persuasion mov'd along.
Could his own statue hear his *Handel's*
strain,
The life infus'd would beat in ev'ry vein,
And the dead stone appear the very man.

On the EARTHQUAKE at our SAVIOUR's PASSION.

THE sun did lose its light, and darkness
reign,
And earth express a sympathy of pain ;
No wonder nature can in ruins lie,
Nature must needs be sad when God can die.

On the DEATH of a NEAR RELATION.

FAREWEL, kind maid, in this sad vale
below, [bid to flow ;
Joy stops those tears, which grief would
Thou'rt safe arriv'd on the bright happy
shore, [more ;
Where sorrow never shall approach thee
Thy combat's o'er, fair angels bless thy eyes,
And shew thee all the glory of the skies :
They heal thy pains, thy humble virtues
praise, [rays.
And God smiles on thee with unclouded
Thy artless christian virtues which I knew,
Were not less real, hid from others view,
This certain truth by all is understood,
Heav'n must be destin'd for the chaste and
good. [throng,
What blaze was that—the bright angelick
While the pole echoes with the charms of
song,
Thy welcome ghost with melody surround,
And strew ambrosial flow'rs on heav'nly
ground.
Hail pious soul ! still some kind care bestow
On him, whose wants thou still must fully
know. [no night,
Thou know'st them in the day which fears
Where all is joy and beatifick light :
There, sure, thou'l listen to my grateful
lays, [praise :
For heav'n delights in love, in hymns and
And if benevolent thou here could'st love,
Thy charity must be on flame above.

J. DINSDALE.

To PHILLIS. A PINDARIQUE ODE.

A PARAPHRASE on the 5th ODE of the fifth Book of HORACE.

1.
WHAT fav'rite swain in blooming
years,
Slender in shape, and gayly drest,
His fragrant honours to thee bears,
With love inspir'd, and youth possest,
And seeks to live within your breast ?

On beds of roses laid,
Within the covert of some secret shade.

2.
For whom, oh *Phyllis*, do you bind
Your golden locks, and in those wreaths
confine, [wind,
Which strike our sight, and wanton to the
Genteel tho' plain, and lovely tho' not
fine.

3.
How often will he mourn his hapless fate,
The fickle gods who made him great,
Who felt too soon, and found too late,
Your honour lost,
Your plighted faith, and broken vow ?
He, ignorant will with wonder gaze,
To see the vessel vainly tost,
The waves o'er one another rise,
The waters swell, the winds to blow,
And see the sudden ghastly sight when all
was calm as now.

4.
He who enraptur'd wanders o'er your
charms, [arms,
And credulous takes you to his willing
Who hopes to find you all his care,
Always loving, and sincere,
Always open, all the same, [flame !
Untaught your airs, and your inconstant
Shall find you false and flattering as fair.

5.
Wretched are those on whom you shine,
With heavenly looks, and features all di-
vine,
Happy to please with amorous joy,
And yield an easy conquest o'er your heart,
Then wound with all your smart,
Death in your breast, tho' love within
your eye.

6.
The sacred altar does my trophies bear,
And, in my weeds, my dangers wear.
Shipwreck'd on the tempestuous sea
My vows I offer to the Deity,
As grateful marks of my security ; }
And, as preserv'd from its all threat'ning
power, [shore.
Thank the kind God, and make the friendly

Wrote by a Gentleman, on his letting a Candle fall upon a Lady's Bosom.

THE candle, quite eclips'd by *Cælia's*
eyes,
Vindictive to her spotless bosom flies ;
Soon the rash flame, subdu'd by softer
fires,
Lost in the brightness of his charms ex-
pires.
Regret not then, thou sweet, unsullied
maid !
Thy injur'd robings and thy soild bro-
cade.—
Who would not thither, like the taper, fly,
And on that dear that beauteous bosom die ?

202 French King's Declaration against the Queen of Hungary.

*On the DEATH of Capt. CORNWALL,
in the late Engagement under Admiral
MATTHEWS.*

THO' to no name the partial victory
rose, [fled the foes,
When fought brave Matthews, and when
Yet, Cornwall, stands that day a lasting date,
Stamp'd by thy deed, and founded on thy fate:
Where urg'd the British flag th' impetuous
fray, [prey,
And now o'erpower'd, seem'd only not a
Thither the ready aid thy ardour bore,
Nor felt the danger it beheld before;
'Midst crowded thunders pleas'd thy chief
to join, [try, thine:
And make the wound, design'd thy coun-
Thither thou cam'st, at honour's sacred call,
Thou cam'st, at once to conquer, and to fall;
To die a victim to the British name,
To die the hero's death, and live to fame.
Above the rest, brave Cornwall, shines
thy part,
Strikes every eye, and gains on every heart;
Asks our sincerest tears, commands our
praise, [days.
And with consummate glory crowns thy
Hence to like worth shall thy colleagues
aspire,
And, blushing to survive thee, catch thy fire.
Hence with new thirst of fame shall thou-
stands glow,
And for thy fate revenge us on the foe.

On the FRENCH KING'S CAMPAIGN.

OFT fourteenth Lewis took the field,
And sieges saw he many:
But danger, tho' he oft bebold,
He never was in any.
With like reserve, his mighty heir
Shall lead his brave commanders;
Enough to say, the king was there,
If he but visits Flanders.

*Myra's Mirrour, and several other Pieces, in
our next.*

*The French King's Ordinance for Declaring
War against the Queen of Hungary.*

WHEN his Majesty found himself un-
der a Necessity, after trying in vain
all Methods to bring about a Reconcilia-
tion, to grant the House of Bavaria the
Succours which he was bound to furnish it
with, in order to enable it to make good
its Claims to some of the Territories of the
Succession of the late Emperor Charles the
Sixth, he had not the least Intention to
make himself a Principal in the War. If
the King had had a Mind to take Advan-
tage of the Juncture of Affairs, in order
to extend the Frontiers of his Kingdom,
every one knows how easily he might have
done it, either by his Arms, which at that
Time would have met but with a faint Re-
sistance, or by accepting the advantageous
Offers made to him from Time to Time

by the Queen of Hungary, in order to de-
tach him from his Allies: But his Majesty's
Moderation has been so far from producing
the Effects which might naturally have
been expected from it, that the Proceed-
ings of the Court of Vienna have been car-
ried to such a Height of Animosity and
Violence, as will no longer admit of his
Majesty's delaying to shew his just Re-
sentment. The scandalous Writings with
which that Court has in a Manner drowned
all Europe, her Infraction of all the Capi-
tulations, her cruel Usage of the French
Prisoners, whom she detains against the
expres Stipulations of the Cartel; in fine,
her Efforts to penetrate into Alsace, pre-
ceded by Declarations as rash as they were
indecent, which she dispersed on the Fron-
tiers, in order to spirit up the People to a
Revolt: So many repeated Excesses have
at last forced his Majesty, as well to avenge
the Affronts offered to himself, as to de-
fend his own Dominions, and support the
Rights of his Allies, to declare War, as
he does by the present, against the Queen
of Hungary, both by Sea and Land, and
to attack all her Possessions indiscriminate-
ly: His Majesty ordering and enjoining
all his Subjects, Vassals and Servants, to
annoy the Queen of Hungary's Subjects
by all the Means in their Power: Ex-
presa forbidding them from henceforth to
hold any Communication, Commerce or
Intelligence with them, upon Pain of Death;
and, in Consequence thereof, his Majesty
has and does revoke, from this Day, all
Permissions, Passports, Safe-guards, and
Safe-conducts that may have been granted
by him or by his Lieutenant Generals and
other Officers, contrary to the present De-
claration, and has declared and does de-
clare them null, void, and of no Effect;
forbidding all Persons whatsoever to have
any Regard thereto: Commands and en-
joins the Duke of Pentbievre, Admiral of
France, Governors and Lieutenant Gene-
rals for his Majesty in his Provinces and
Armies, Major Generals, Colonels, Cap-
tains, Chiefs and Leaders of his Soldiery,
both Horse and Foot, French and Fo-
reigners, and all other Officers whom it
may concern, that they do cause the Con-
tents of the present Declaration to be ex-
ecuted, every one in the Extent of his Ju-
risdiction, or according to his Post; for
such is his Majesty's Will; who likewise
wills and means that the present Ordinance
be published and fixed up in all his Ports,
Havens, and other Places in his Kingdom
and Territories under his Obedience, where
need shall be, to the End that none may
plead Ignorance thereof. Done at Versailles
the 26th of April, 1744, N. S.

*Sign'd LOUIS.
And undermarr, AMELOT. THE*

THE Monthly Chronologer.



BOUT the End of last Month we had an Account, that on Feb. 26, was brought into *Gibraltar*, by his Majesty's Ship the *Solebay*, commanded by Capt. *Bury*, the *Concordia*, a Spanish Register Ship, of 22 Guns and 142 Men, including Passengers, taken the Day before off *Cadiz*, after five Hours Engagement. She is the richest Prize that has been made in the present War with *Spain*, having on board 180,000 Dollars, 12,000 Serons of Cochineal, 500 of Indigo, and several other rich Goods; the Whole computed at a Million and a Half of Dollars. A little before, Capt. *Bury* took a Spanish Privateer of 4 Carriage Guns, 10 Swivels, and 75 Men.

Private Letters from *South Carolina* advise, that a great Number of *French Indians* have rose at that Province and destroyed several of the *English*, particularly some that belonged to the Storehouse of Mr. *Andrews*, where they caried off large Quantities of valuable Effects. At the same Time we were inform'd, that they were endeavouring to persuade the two great and famous Nations of the *Cheroquee* and *Creek Indians* to revolt from us.

His Majesty has been pleased to authorize and empower the Lords Commissioners of the Admiralty, to issue forth and grant Letters of Marque or Commissions to Privateers, for the seizing and taking the Ships, Vessels, and Goods belonging to *France*, or the Vassals and Subjects of the French King, or others inhabiting within any of his Countries, Territories or Dominions, and such other Ships, Vessels and Goods, as are or shall be liable to Confiscation, pursuant to the respective Treaties between his Majesty and other Princes, States and Potentates.

By his Majesty's Declaration for the Encouragement of his Ships of War and Privateers, the sole Interest and Property in every Prize is vested in the Captors.

The following is said to be an exact List of the Troops that are to form the Confederate Army in *Flanders*, viz. *English* 22,000; *Hanoverians* 16,000; *Hessians* 6000; *Dutch* 20,000; *Austrians* 25,000: In all 83,000; besides *Hussars* and Independent Corps.

On Occasion of some Discourses in relation to the *Toulon* Engagement, the following Pieces of History was inserted in the Papers, viz. In October 1702, Capt. *Kirby*

and Capt. *Wade* were fry'd on board the *Breda* at *Port Royal* in *Jamaica*, for Cowardice, and Breach of Orders from the brave Admiral *Bembow*, who being deserted by these Captains, died of the Wounds he receiv'd in the Engagement with *Du Caffe* in the *West-Indies*. *Wade* and *Kirby* receiv'd their Deserts, and were both shot to death on board a Ship at *Plymouth*, they not being suffer'd to set Foot on Shore, which Sentence her late Majesty Q. *Anne* dispatch'd a special Messenger to see executed.

The humble Address of the High Sheriff, Grand Jury, and Justices of the Peace of the County of *Cornwall*, March 22, 1743-4.

Most gracious Sovereign,

WE your Majesty's most faithful Subjects, the High Sheriff, Grand Jury, and Justices of the Peace of the County of *Cornwall*, beg Leave to approach your Majesty, upon this critical Occasion, with Hearts full of Loyalty and Affection to your Royal Person and Government, and with the strongest Assurances of supporting your Majesty, with our Lives and Fortunes, against any Attempts that may be made to invade these Kingdoms, in Favour of a Popish Pretender to your Majesty's Throne.

And tho' we lament our not having an earlier Opportunity of offering our Tribute of Zeal and Duty, there being no County more sincerely attached to your Majesty's Royal Family and Government, or that would be more forward in their Service; yet it affords us this peculiar Advantage, that we can now, with the greatest Satisfaction, congratulate your Majesty upon the full Testimony which the late rash Enterprize of *France* has produced to your Majesty and the whole World, that a King of *Great Britain*, reigning in the Hearts of a free People, is so securely seated upon his Throne, that, tho' Endeavours of this Kind may for a while alarm, they can in the End prove destructive only to those who are so rash as to presume, that a Nation, so passionately fond of Liberty, will yield to arbitrary and despotic Power.

And we beg Leave farther to assure your Majesty, that we are fully sensible, that, under the present happy Establishment and Government only, the Liberties of these Kingdoms can be secure; and we apprehend every Measure which may conciliate the Minds of your Majesty's Subjects to your

your Person and Government, will be absolutely necessary at this Time; and we shall be watchful and diligent, in our several Stations, to recommend Principles of Loyalty and Affection, and, as far as in us lies, disowne and suppress all wanton Endeavours to disturb the settled Peace and Tranquillity of our County.

On March 29, the County Infirmary, founded at Northampton, Sept. 20, 1743, for the Reception of sick and lame Poor, was open'd there; when the Earl of Northampton, perpetual President, the Earl of Halifax, and many of the Gentry and Clergy of the County, went in Procession, attended by the Mayor, Aldermen, &c. in their Formalities, to All-Saints Church; where, after a Sermon, a Collection was made, amounting to 54l. 16s. 1d. 3 Farthings. After which, they proceeded to the Infirmary, and admitted several poor Objects.

By the last Act in relation to Spirituous Liquors it is ordered, that if any Distiller, Grocer, Chandler, &c. has obtained a Licence for selling the same, under Pretence of keeping a Coffee-house, Ale-house, &c. the same shall be deem'd void and of no Effect, and the Person so retailing shall be liable to the Penalty of 10l. as if no such Licence had been granted.

SUNDAY, April 1.

Sir John Norris arriv'd at his House in Berkley-square, and the next Day waited on his Majesty.

TUESDAY, 3.

His Majesty went to the House of Peers, and gave the Royal Assent to the Bill for explaining and amending an Act lately pass'd for the more speedy and effectual recruiting the Land Forces and Marines. After which his Majesty made a most gracious Speech to both Houses of Parliament. (See p. 188.) In the said Act there is a Clause, that every Person who enters voluntarily, shall receive Four Pounds as a Gratuity, and be at Liberty, if he does not like the Service, to quit it at the Expiration of three Years. And soon after a very hot Press began for Soldiers as well as Seamen.

The Venetian Ambassador here delivered to his Grace the Duke of Newcastle, a Paper, of which the following is a Translation, on Occasion of a Dispute which lately happened at Rome between the Coaches of the Venetian Ambassador there, and of the younger Son of the Pretender.

Copy of the Note, which his Excellency Signior Kr. Lezze, the Venetian Ambassador at Rome, will have presented to the Cardinal Secretary of State, in Execution of the Resolutions of the Most Excellent Senate, of the 24th of March, 1744.

THE Ambassador of Venice finding it to be his Duty to execute, with the utmost Expedition, a Commission from the Most Excellent Senate, which he received with his Letters of this Day, he thinks it indispensable to communicate to his Eminence, the Secretary of State, what follows, viz.

That his Holiness cannot be ignorant, that the Most Serene Republick is one of those Powers who have not acknowledged, as King of England, the Person who is call'd and treated as such at Rome; since the Venetian Embassadors here have always forbore shewing the least Appearance that might seem contrary to the Intention of the Republick, made known to all Europe, and in no Time alter'd.

Accordingly, upon the first Advices which the Most Excellent Senate had of the Incident of the Coachmen, they having observed, that the Turn which is attempted here to be given to that Affair, tends directly to include a Point of so great Importance, as that of introducing the Figure of the Pretender under the Name of King, they determined not to hearken to any Negotiation built upon that Foundation, being resolved, on no account, to depart from the Maxims above-mentioned; agreeably to which, the strictest Orders had been given to him the Ambassador.

The said Ambassador also acquainted his Grace, that the Venetian Embassadors at Vienna, Paris, and Madrid, had Orders to make the like Declarations at those Courts.

FRIDAY, 6.

The Sessions ended at the Old Bailey, when Isabella Mills received Sentence of Death for stealing a Silver Tankard out of a publick House in Rosemary-Lane.

MONDAY, 9.

A Messenger arriv'd with Dispatches from Admiral Matthews, to his Grace the Duke of Newcastle, of the 17th past, from Malon Harbour, giving an Account, that the Damages sustained by his Majesty's Fleet under his Command, as well in the late Engagement with the French and Spaniards, as in the subsequent Storms, being repaired, and the Ships fitted for the Sea, he proposed to sail again from thence the Day following.

Those Letters likewise bring Advice, that the Admiral had thought himself obliged to suspend Vice-Admiral Leflock, in regard to his Conduct in the late Action, from all farther Authority in his Majesty's Fleet, till the King's Pleasure should be known; and that he had ordered the said Vice-Admiral to return home immediately on board his Majesty's Ship the Salisbury.

There is great Reason to suspect, that many of the Letters handed about under the Names of Officers of the Fleet in the Medi-

Mediterranean are fictitious, and contrived to serve private Purposes; at least this is certain, that they are absolutely inconsistent with each other, and cannot therefore be depended upon.

WEDNESDAY, 11.

The fifth national Fast was observ'd on Account of the *Spanish War*.

The Fox Man of War has taken the famous Privateer Schooner belonging to *Bayonne*, which is said to out-sail every Privateer in *Galicia*: And the *Sapphire* has also taken a Galliot Hoy from *Dantzick*, bound to *Dunkirk*, having on board 193 Officers and Soldiers, and about 60 Arms, for the Service of the *French King*.

SUNDAY, 15.

The Birth-Day of his Royal Highness the Duke of *Cumberland* was celebrated, when he enter'd into the 24th Year of his Age.

The States General are come to an unanimous Resolution, to send to his Majesty's Assistance, the 20 Men of War demanded by his Excellency Mr. *Trever*.

MONDAY, 16.

This Night the great Cause was ended in the House of Lords, which had been several Days hearing, between *Isabella Le Neve*, Appellant, and *John Norris*, an Infant, and others, Respondents; when their Lordships affirmed the Decree of the Court of Chancery; this being the first Appeal from that Court, since the present Lord Chancellor presided in it.

His Grace the Duke of *Devonshire*, Lord Lieutenant of *Ireland*, arriv'd at his House in *Piccadilly* from that Kingdom.

WEDNESDAY, 18.

The Lords of the Admiralty ordered all the Sloops and Tenders that are in his Majesty's Service to put to Sea forthwith; which, if properly stationed, will greatly protect our Trade.

THURSDAY, 19.

Was held the Anniversary Feast of the Sons of the Clergy: The Collection at which, with that at the Rehearsal, amounted to upwards of 840*l.*

SUNDAY, 22.

Mr. *Thompson*, his Majesty's late Minister in *France*, arriv'd at his House in *St. Jame's-street*.

THURSDAY, 26.

Mr. *Bond*, Master of the Ship *Justitia*, was tried at a Court of Admiralty, at the *Old Baily*, for Murder, in suffering several Persons to die on board for want of Water, (among whom was *William Bird*, late Keeper of *St. Martin's Roundhouse*, see *Magazine* for 1742, p. 569.) as he was transporting them to the *American Plantations*; and was honourably acquitted, after a Trial of 12 Hours.

Several of our Ships have been taken

by the *French Privateers*, and carried, some into *Dunkirk*, and some into other Places.

FRIDAY, 27.

His Majesty's Ships the *Phoenix* and *Gibraltar* having taken on their Cruize off *Brest* a *French Ship*, call'd the *Neptune*, of 36 Carriage and Swivel Guns, laden with Linen, and other rich Goods, bound from *Morlaix* to *Cadiz*, and after some Resistance, in whch the *French Captain* and three Men were kill'd, and 14 wounded; the said Ship was, this Day, brought to *Spethead* by the *Phoenix*. She is said to be worth above 40,000*l.*

A very bumble ADVERTISEMENT accurately berbym'd.

SIR Thomas D- V--- thinks it proper to tell, [V---,
That sommonses sent by Sir Thomas D- Which Sir Thomas D- V--- never thought should be sent, [meant:
Were left where Sir Thomas D- V--- never These Sir Thomas D- V--- has thought good to repeal, [V---.
As witness his writing.—Sir Thomas D- [Vide Daily Advertiser, April 20.]

MARRIAGES and BIRTHS.

HENRY Blincoe, of *Gray's-Inn*, Esq; to Miss *Molly Prescott*.

William Belford, Esq; Major in the Train of Artillery, to Miss *Schaleb*.

William Clark, of *Gravel-Lane* in *Southwark*, Esq; to Miss *Cofins*.

Thomas Seals, of *Spilsby* in *Lincolnshire*, Esq; to Mrs. *Eleanor Mellar*.

Spencer Lewis, of *Dorsetshire*, Esq; to Miss *Freeman*.

John Robinson Lytton, of *Hertfordshire*, Esq; to Miss *Brereton*, an Heiress of 50,000*l.* Fortune.

George Venables Vernon, Esq; Member of Parl. for *Litchfield*, to the Hon. Miss *Harcourt*, Sister to the Lord Viscount *Harcourt*.

George Grimstone, Esq; Son of the Lord Viscount *Grimstone*, to Miss *Clover*.

Rev. Mr. Fountaine, Canon of *Windfor*, to Miss *Bromley*.

James Buller, Esq; Member of Parl. for *East-Loo* in *Cornwall*, to the Hon. Miss *Baburift*, third Daughter to the Lord *Baburift*.

It was not till the Middle of this Month, that the Lord *Carteret* was married to Miss *Fermor*.

Her Grace the Duchess of *Portland*, deliver'd of a Son.

DEATHS.

SIR Bybie Lake, Bart. Sub-Governor of the Royal African Company, succeeded by his eldest Son, now Sir Atwell Lake, Bart.—Dr. Johnson, an eminent Physician at *York*.—Right Hon. the Lord *Stourton*, a Roman Catholick Peer, succeeded by his Nephew, Charles Stourton, Esq; now Lord *Stourton*.—Richard Fitzwilliam, Esq; son

merly Governor of the *Bahama Islands*.—*John Brydges Dowell*, Esq; posseſ'd of a considerable Estate in Kent and Glouceſterſhire.—*William Carter*, of Redbourne in Lincolnſhire, Esq; Member of Parliament for *Kingſton upon Hull*.—*William Wilmer*, of Sywell in Northamptonſhire, Esq; Member of Parl. for Northampton.—*Mr. John Waltboe*, ſen. in the 86th Year of his Age, formerly an eminent Bookseller in the Temple.—*Sir John Peachey*, Bart. Member of Parl. for Midburſt in Suffex, ſucceeded by his eldest Son, now *Sir Joseph Peachey*, Bart.—*Mr. Newſham*, the noted Engine-maker, in Cloth-Fair.—*Rev. Mr. William Bowman*, Rector of Aldborougb in Yorkſhire, &c. Author of a remarkable Viſitation Sermon, entitled, *The Traditions of the Clergy deſtructive to Religion*.—*Edward Clavell*, Esq; at his Seat at the Isle of Purbeck, in Dorſetſhire, whose Family is recorded in Domesday-Book, to have been there in the Conqueror's Time.—*Richard Bold*, Esq; ſeveral Years an Officer under the great Duke of Marlborough.—*Sir John Kennedy*, of Cullean, Bart. in Scotland.—*Sir William Gage*, of Firle in Suffex, Bart. Knight of the Bath, and Member of Parl. for Seaford.—*Rev. Mr. Millar*, Author of the new Tragedy call'd *Mahomet*.

Ecclesiastical PREFERMENTS.

Mr. *Jervis* presented to the Living of St. Mary's in Litchfield.—*Mr. William Langbarne*, to the Rectory of Manerdivy in Pembrokeſhire.—*Dr. Skipper*, to the Living of Agmondeſham in Bucks.—*Dr. Taylor* made Chancellor of Lincoln.—*Mr. Zachary Brooke* presented to the Vicarage of Ickleton in Cambridgeshire.—*Samuel Dicker*, M. A. to the Rectory of Houghton with Wyton, in Huntingdonſhire.—*Mr. Owen Evans*, to the Vicarage of Llangaddook, in Caermertbenſhire.—*Mr. Zachary Suger*, to the Rectory of St. Cuthbert in York.—*Mr. John Wyecombe*, to the Rectory of St. Mary's in Winchester.

PROMOTIONS Civil and Military.

Mr. *Davis*, Serjeant Major to the First Reg. of Foot Guards, made a Lieutenant of Marines in Col. *Lowther's* Regiment.—*Lieutenant Hughes*, of the Dunkirk Man of War, in Admiral *Matthews's* Squadron, made Captain of the ſaid Ship, in the Room of Capt. *Purvis*.—*Capt. Hannaway*, made Captain of the Shoreham, a 20 Gun Ship.—*Capt. Mofyn*, made Captain of the Hampton-Court, a 70 Gun Ship, lately rebuilt at Deptford.—*John Wynne*, Esq; appointed Deputy Treasurer of Cbeſta-Hoſpital.—*Dr. Saunders* appointed Physician and Surgeon to the Island of St. Helena.—*Dr. Isaac Lawſon* appointed Physician to the Army.—*Capt. Durand* made Colonel of a Company in the First R. gi-
ment of Foot Guards.

New Members.

Sir Coventry Carew, Bart. for Cornwall.—*George Mountague*, Esq; for Northampton.—*Sir Joseph Peachey*, Bart. for Midburſt in Suffex.

Persons declar'd BANKRUPTS.

JO NAT HAN *Gofſelow*, late of Boston in Lincolnſhire, Breeches-maker.—*Thomas Windley*, late of Savage-Garden, Tower-Hill, Carpenter.—*William Fewſter*, of Birmingham, Chapman and Dealer.—*Benjamin Phillips*, of St. James's, Westminster, Up-holder.—*Margaret Waylen*, of the Devizes, Milliner, Mercer, and Shopkeeper.—*Thomas Boſtock*, late of Sandbach, in Cheshire, Butcher.—*Francis Chaloner*, late of Yarm in Yorkſhire, Merchant.—*Richard Hutchins the Elder*, late of Woolmiſone, in Somersetshire, Yarnwaffer.—*Sar. Botbell*, late of Castle-st. Southwark, Baker.—*Rich. Worgan*, of Deptford, Brewer.—*Thos. Gebeen*, late of Broad-street, Merchant and Mariner.—*George Austin*, of Berwick-street, Westminster, Coach and Coach-Harness-Maker.—*John Wright*, of the Parish of Christchurch, Middleſex, Mercer.—*John Burnet*, late of St. Andrew's, Holborn, Distiller and Victualler.—*John Adams*, late of Wem in Shropſhire, Grocer and Ironmonger.—*John Impay*, of St. Andrew's, Holborn, Druggift.—*Rich. Bridges*, of Milk-street, Haberdasher.—*James Daviſon*, of St. Andrew, Holborn, Victualler.—*Joseph Tickett*, of Malcalf in Derbyſhire, Merchant.—*Thomas Morison*, of Broad-street, Merchant.

Abstract of the London WEEKLY BILL, from March 27. to April 24.

| | | | | |
|------------------------|-----------|-----|---|------|
| Christned | { Males | 578 | 3 | 1154 |
| | { Females | 576 | 3 | |
| Buried | { Males | 800 | 3 | 1672 |
| | { Females | 872 | 3 | |
| Died under 2 Years old | | | | 603 |
| Between 2 and 5 | | | | 133 |
| 5 | | 10 | | 51 |
| 10 | | 20 | | 40 |
| 20 | | 30 | | 137 |
| 30 | | 40 | | 166 |
| 40 | | 50 | | 159 |
| 50 | | 60 | | 134 |
| 60 | | 70 | | 132 |
| 70 | | 80 | | 84 |
| 80 | | 90 | | 28 |
| 90 and upwards | | | | 5 |
| | | | | 1672 |

Hay 45 to 50s. a Load.

OUR

OUR Advices from *Paris*, of the 19th past, say, that tho' the Publick had a Notion that Things would not continue long on the same Footing with regard to *England*, yet no body dreamed that a Declaration of War would be published so soon against that Crown; so that they were not a little startled when they heard it proclaimed that Morning *: And that the two first Couriers dispatched with the News of this important Event, were sent to *Frankfort* and *Madrid*, to assure the Emperor, and King of *Spain*, that his Most Christian Majesty would not sheath his Sword, until he had obtained Satisfaction for his Allies as well as himself. However, if our Ministers have taken Care to form proper Alliances, we have no Occasion to be startled at this Declaration, considering how strongly he declared in the Years 1733 and 1734, that he would never sheath his Sword till he had established *Stanislaus* on the Throne of *Poland*.

As the French seem resolved to declare War against the Queen of *Hungary*, in order to attack the *Austrian Netherlands*, the Marquis de *Fenelon* set out from *Paris* on the 4th Inst. for the *Hague*; and on the 16th his Most Christian Majesty set out from *Versailles* for *la Muette*: Next Day he arrived at *Chantilly*; and, it was computed, he would reach *Peronne* the Day following, from whence he was next Day to proceed to *Flanders*, to put himself at the Head of the Army, in order to open the Trenches before *Mons*, every Thing being ready for that Siege. This Army, the French say, consists of 136 Battalions, and 162 Squadrons, making in all 124,260 Men; besides an Army upon the *Moselle*, with which they threaten to march to *Hanover*, another upon the *Rhine*, with which they are to join the Emperor's, in order to march to *Bavaria*, a fourth in Conjunction with the Spaniards to attack *Piedmount*, and a fifth, a flying Camp, near *Dunkirk*, in order to frighten us with an Invasion. As *Mons* is not one of the Barrier Towns, they imagine their attacking that Place ought not to be look'd on as an Attack upon the Dutch; but if they take it, they may very soon make themselves Masters of *Brussels*, *Louvain*, *Mecklin*, *Ghent* and *Bruges*, none of which are well fortified; and by this Means they will, as they did in 1701, cut off all Communication between the Dutch and their Barrier Towns; so that the Siege of *Mons*, if it be undertaken, will probably produce a Battle, supposing the Allied Army to be in a Condition to venture one; and therefore we may expect some important News from *Flanders* before the End of next Month.

Notwithstanding the flying Camp which the French have at *Dunkirk*, they seem at present to have laid aside all Designs of invading us, the Transport Ships being dismissed or converted into Privateers; and the Pretender's Son has gone back to *Paris*, where he still appears incognito; but as Transports may be soon again provided, and as that young Man has already shewn, that his Motions are not only quick but secret, we have still Reason to be upon our Guard.

The Marquis de *Fenelon*, being arriv'd in *Holland*, went on the 12th in his State Coach to the Assembly of the States General, followed by 9 Coaches and six, 36 drawn by four, and 32 by two Horses; when he made a long Speech to their High Mightinesses, which, according to Custom, he afterwards delivered in Writing. In this Speech he very plainly insinuated, that since the Dutch had refused to come into a Neutrality with respect to the *Austrian Netherlands*, they could not expect, that his Master would forbear attacking his Enemies on that Side; and he complain'd heavily against the Dutch sending a Body of their Forces last Year to the Assistance of those who destined them to no less Purpose than bearing a Part with them in the Invasion of *Alsace* and *Lorain*.

The President of the Assembly made then no other Answer, but that they would, forthwith, take his Speech into Consideration, and give him an Answer as soon as possible; and as the Marquis was very soon to depart for *Flanders*, it was upon the 14th proposed in the Assembly of their High Mightinesses by the States of *Holland* and *West-Friesland*, to deliberate, whether, in the present Circumstances, it would not be proper to invite the Marquis de *Fenelon* to a Conference before his Departure, in order to represent to him, that as the Republick could not see with Indifference the *Low Countries* attack'd, their High Mightinesses hoped the Court of *France* would defer doing it, seeing they had resolved to send to his Most Christian Majesty an Ambassador Extraordinary, to bring about, if possible, a Truce between the Parties at War. This Proposition was immediately agreed to: The Marquis was that Afternoon invited to a Conference next Morning at the Hall of *Triers*, where he accordingly went, had a Conference with them for above an Hour, and next Morning set out for the French Army in *Flanders*, with a Passport from the States General.

ENTER-

* See our last Magazine, p. 150.

ENTERTAINMENT and POETRY.

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SERMON.

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